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STATE OF MICHIGAN

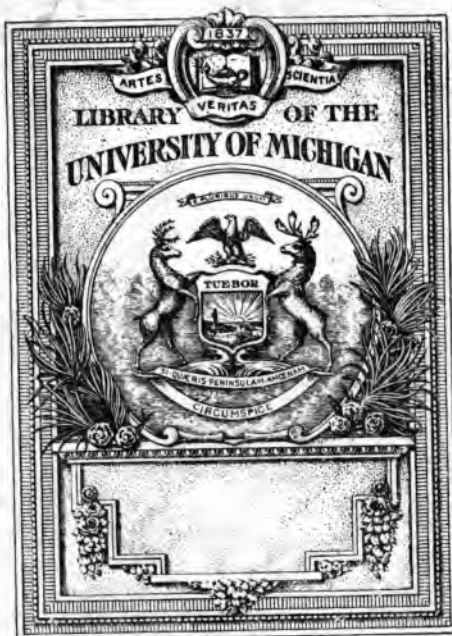
LAWS RELATING TO

INSURANCE

COMPILED UNDER THE SUPERVISION OF
FREDERICK C. MARTINDALE
SECRETARY OF STATE

BY AUTHORITY

LANSING, MICHIGAN
WYNKOOP HALLENBECK CRAWFORD CO. STATE PRINTERS
1909



THE GIFT OF
Mich. Dept. of Insur.

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INSURANCE LAWS.

PART I.—THE INSURANCE BUREAU.

CHAPTER I.—ORGANIZATION OF THE BUREAU.

An Act to establish an insurance bureau.

[Act 108, S. L., 1871.]

The People of the State of Michigan enact:

(1) § 5100. SECTION 1. That there is hereby established ^{Bureau} in the state department a separate and distinct bureau, which ^{established.} shall be especially charged with the execution of the laws heretofore passed, or that may be hereafter passed, in relation to fire, fire and marine, life, and other methods and practices of insurance.

Title of act held valid.—Conn. M. L. Ins. Co. v. State Treasurer, 31/6. It is within the power of the legislature to provide for an examination into the affairs of existing insurance companies.—People v. State Ins. Co., 19/397.

(2) § 5101. SEC. 2. The chief officer of said department shall be denominated the commissioner of insurance. ^{Commissioner of insurance.} He shall be a citizen of this state, and shall have his office at the seat of government, and personally superintend the duties of his office, and shall not be directly or indirectly connected with the management or affairs of any insurance company. He shall be appointed by the governor, by and with the consent of the senate, and shall hold his office for the term of ^{Appointment, term of office, and salary.} two years from and after the first day of July in the year of his appointment and until his successor is appointed and qualified; he shall receive an annual salary of two thousand dollars, to be paid quarterly, on the warrant of the auditor general. He may appoint a deputy, with the approbation of ^{Deputy. Powers, duties, salaries, etc.} the governor, and revoke such appointment at pleasure. Such deputy shall take and subscribe the oath prescribed by the constitution, and whenever the commissioner of insurance shall, by reason of sickness, absence, or other cause, be disabled from executing the duties of his office, his deputy, duly appointed, shall execute the duties thereof until such disability be removed, or until a commissioner shall be appointed;

and such deputy shall receive an annual salary of fifteen hundred dollars for the year eighteen hundred and eighty-seven and each year thereafter, payable monthly, on the warrant of the auditor general. The commissioner may employ a chief clerk to discharge such duties as he may assign him, whose compensation shall not exceed twelve hundred dollars per annum, and such other additional or extra clerks as in his discretion the work of the office may require, whose compensation shall not exceed one thousand dollars per annum; the salary of such deputy and clerks to be paid monthly, on the warrant of the auditor general. Whenever a vacancy shall occur in said office of commissioner by reason of death, removal or otherwise, the governor shall fill such vacancy by appointment, by and with the advice and consent of the senate, if in session. Within fifteen days from the time of notice of his appointment the commissioner shall take and subscribe the oath of office prescribed by the constitution and file the same in the office of the secretary of state; and the said commissioner of insurance shall give to the people of the state of Michigan a bond in the penal sum of ten thousand dollars, with sureties to be approved by the auditor general, conditioned for the faithful discharge of the duties of his office.

Clerks, compensation of.

Vacancy.

Oath of office.

Bond.

Powers and duties.

(3) § 5102. SEC. 3. The commissioner of insurance shall possess all the powers, perform all the duties, and be subjected to all the obligations and penalties now conferred by law upon the secretary of state, or to which the secretary of state is subject in relation to insurance companies, and the formation thereof, under the laws relating thereto, so that every power and duty thereby conferred on the secretary of state shall, from and after the appointment of such commissioner, be transferred to and conferred upon the said commissioner. The commissioner shall be required to annually report the names and compensation of the clerk employed by him, and the whole amount of expenses of the department during the year; such report shall be made on or before the last day of June in each year, and fifteen hundred copies shall be printed for public information and use.*

As to the powers of the commissioner over licenses, investigations, etc., see *Nat'l Life Ins. Co. v. Commissioner*, 25/321; *American Ins. Co. v. Stoy*, 41/385; *People v. State Ins. Co.*, 19/392. The commissioner cannot lawfully revoke a license, except on the investigation and proceedings, and in the particular cases, fixed by the statutes.—*Nat'l Life Ins. Co. v. Commissioner*, 25/321. It is the policy of this state to limit the business of insurance to such corporations, domestic and foreign, as shall be authorized by the commissioner of insurance to do business after compliance with certain regulations and conditions prescribed by law; and all fire insurance companies are expressly forbidden to transact any business of insurance within this state without the requisite authority.—*Seamans v. The Temple Company*, 105/400. An insurance corporation organized in another state can be admitted to do business in this state only upon such terms as this state may impose.—*Pollock v. German Fire Ins. Co.*, 132/225. Former duties of secretary of state transferred to commissioner of insurance.—*Mich. Mut. Life Ins. Co. v. Hartz*, 129/104.

*Act 297 of 1905 provides for the publication of not to exceed 1,200 copies of the fire and marine report, and not to exceed 1,500 copies of the life, casualty, assessment and fraternal report.

(4) § 5103. SEC. 4. The said commissioner, with the approval of the governor, shall devise a seal, with suitable inscriptions, for his office, a description of which, with certificate of the approval of the governor, shall be filed in the office of the secretary of state, with an impression thereof, which seal shall thereupon be and become the seal of office of the commissioner of insurance, and the same may be renewed whenever necessary. Every certificate, assignment, or conveyance executed by the said commissioner in pursuance of any authority conferred on him by law, and sealed with his said seal of office, shall be received as evidence, and may be recorded in the proper recording offices, in the same manner, and with like effect, as a deed regularly acknowledged or approved before an officer authorized by law to take the proof or acknowledgment of deeds, or filed in the office of any county clerk or clerk of a court of record, and all copies of papers in the office of the said commissioner, certified by him, and authenticated by the said seal, shall in all cases be evidence in all courts of this state equally and in like manner as the original. An impression of said seal directly on paper shall be as valid as if made on a wafer or wax.

(5) § 5104. SEC. 5. All books, papers, and documents, and all other papers whatever in the office of the secretary of state, relating to the business of insurance, shall be transferred to the custody of the commissioner of the insurance bureau, and be and remain in his charge and custody.

Transfer of
books by
secretary of
state.

(6) § 5105. SEC. 6. There shall be assigned to the said commissioner by the secretary of state, at Lansing, suitable rooms for the conducting the business of said bureau; the necessary expenses of which shall be audited by the board of state auditors on the certificate of the commissioner, and paid on the warrant of the auditor general.

Expenses.

(7) § 5106. SEC. 7. The taxes on premiums from insurance companies shall continue to be paid to the state treasurer on the first day of January, or within sixty days thereafter, in each year, and shall be upon the premiums which, during the year or part of the year ending on the preceding thirty-first day of December, shall have been received by any insurance company, or by any person acting as agent therefor, both upon policies issued by agents in this state, or policies issued at the office of the companies upon application of sub-agents or others, or for any individuals or association of individuals, not incorporated or authorized by the laws of this state, to effect insurance against fire, inland, marine, life, casualty, or other losses and risks, or which shall have been received by any person for such company or agent, or shall have been agreed to be paid for any insurance effected, or agreed to be effected or procured by such company or agent, or against fire, inland, marine, life, casualty, or other risks, although such companies, associations, or individuals may be incorporated or authorized for that purpose

Taxes on
premiums.

Voucher
therefor.

by the laws of any other state of the United States, or of any foreign government. The state treasurer, on receiving such tax from any company, shall issue therefor duplicate receipts, one of which he shall deliver to the company, and the other shall be filed with said commissioner.

Construction of this section with section 28 of this compilation, prior to the amendment of the latter in 1875.—Conn. M. L. Ins. Co. v. State Treasurer, 31 / 6. Taxes, in the case of mutual insurance companies, are calculated on the maximum annual premiums set down in the policies.—Conn. M. L. Ins. Co. v. State Treasurer, 31 / 6.

Commissioner
may visit
companies out
of state.

(8) § 5107. SEC. 8. It shall be proper and lawful for the commissioner of insurance, or any person authorized by him, to visit any insurance company in other states or foreign governments for the examination of its affairs, the expenses in all cases to be paid by said insurance companies.

Compensation.

The insurance commissioner, or any person authorized by him, shall be entitled to charge a sum not exceeding ten dollars per day for his services, in addition to his expenses.

Sec. 9 was repealed by Act 30 of 1873.

Removal of
commissioner.

(9) § 5108. SEC. 10. The governor shall have the power, and it is hereby made his duty, to remove the said commissioner for neglect of duty, breach of trust, incompetence, or malfeasance in office, upon reasonable cause shown; and in case of such removal, the governor shall file in the office of the secretary of state, and report to the legislature at its next session, the reasons for such removal.

An Act to authorize the employment of additional clerks in the insurance bureau during a portion of the year.

[Act 194, P. A., 1883.]

The People of the State of Michigan enact:

Employment
of additional
help.

(10) § 5109. SECTION 1. That it shall be lawful for the commissioner of insurance to employ such number of additional clerks in the insurance bureau during the months of January, February, and March as are necessary to perform the work in said office, in each year, at salaries not exceeding the rate of one thousand dollars per year for each clerk so employed, and the compensation of said clerks shall be paid monthly by the state treasurer upon the certificate of the commissioner of insurance.

LAWS RELATING TO INSURANCE.

CHAPTER II.—DISTRIBUTION OF PUBLICATIONS TO COMMISSIONER.

UNITED STATES STATUTES.

[Act 25, P. A., 1875.]

The People of the State of Michigan enact:

(11) § 1780. SECTION 1. That the state librarian, upon the receipt of the statutes of the United States, furnished to the state as provided by act of congress, approved June twenty, eighteen hundred and seventy-four, shall distribute one copy each to the offices of the governor, the secretary of state, the auditor general, the state treasurer, the commissioner of the state land office, the attorney general, the commissioner of railroads, the insurance commissioner, and the superintendent of public instruction; one copy to each of the justices of the supreme court, to each of the circuit judges and judges of the superior courts of this state, and one copy to be kept in the office of the county clerk of each county in this state; ten copies to the state university, five for the general and five for the law library; one copy to the library of the agricultural college; twelve copies to the state library; in all cases the officers receiving the said statutes shall deliver them to their successors in office; and after retaining fifty volumes for future use, the balance, if any, may be distributed to the incorporated libraries and colleges of this state, upon application and payment of charges for the delivery of the same.

Distribution of
United States
statutes by
state li-
brarian.

SUPREME COURT REPORTS.

[Act 168, P. A., 1879.]

(12) § 1570. SEC. 11. That when each volume is published and delivered the state librarian shall distribute one copy each out of said three hundred and fifty volumes to the offices of the governor, the secretary of state, the auditor general, the state treasurer, the commissioner of the state land office, the attorney general, the superintendent of public instruction, the commissioner of railroads, and the commissioner of insurance, one copy to each of the justices of the supreme court, one copy to each of the circuit and superior court and recorder's court judges of this state, one copy to the probate court of every county, one copy to be kept in the office of the state reporter, one copy to each of the United States district court judges in Michigan, one copy to be kept in the office of county clerk of each county in this state, one copy to the library of the university of Michigan, one copy to the library of the agricultural college, and one copy to the library of each of the states and territories, which shall contribute to the library of this state the law reports which shall be published under the authority of such state or territory.

How libraria
to distribute
reports.

PART II.—ORGANIZATION AND REGULATION OF INSURANCE COMPANIES.

CHAPTER III.—LIFE INSURANCE COMPANIES.

An Act in relation to life and casualty insurance companies and surety bonding companies transacting business within this state. (a)

[Act 77, P. A., 1869.]

The People of the State of Michigan enact:

Incorporation,
purposes,
number, etc.

(13) § 7190. SECTION 1. Thirteen or more persons may become a corporation, for the purpose of making any of the following kinds of insurance:

First, Upon the lives and health of persons and every insurance pertaining thereto, and to grant, purchase or dispose of annuities;

Second, To guarantee the fidelity of persons in positions of trust, private or public, and to act as surety on official bonds and for the performance of other obligations;

Third, To insure against loss or damage to property of the assured, and loss or damage to the life, person or property of another for which the assured is liable, caused by the explosion of steam boilers or their connections or by the breakage or rupture of machinery or fly wheels; and against loss of use and occupancy caused thereby;

Fourth, To insure any person against bodily injury or death by accident, or against disability on account of sickness;

Fifth, To insure any person, firm or corporation against loss or damage on account of the bodily injury or death by accident of any person, or against damage caused by automobiles, vehicles or draft animals to property of another, for which loss or damage said person, firm or corporation is responsible, or against accidental damage sustained by automobiles or vehicles, or against all of said contingencies;

Sixth, To insure against a breakage of plate glass, local or in transit;

Seventh, To insure any goods or premises against loss or damage by water caused by the breakage or leakage of sprinklers, pumps, water pipes or plumbing and its fixtures, and against accidental injury from other cause than fire or lightning to such sprinklers, pumps, water pipes, plumbing and fixtures;

Eighth, To carry on the business commonly known as credit insurance or guaranty, either by agreeing to purchase

(a) Title amended, 1907, Act 172.

uncollectible debts, or otherwise to insure against loss or damage from the failure of persons indebted to the assured to meet their liabilities;

Ninth, To examine titles to real and personal property, furnish information relative thereto, and insure owners and others interested therein against loss by reason of encumbrances or defective title;

Tenth, To insure against loss or damage by burglary, theft or house breaking.

Every company organized under this act shall have authority to reinsure any risk authorized to be undertaken by them, and to grant reinsurance upon any similar risk undertaken by any other company, but shall not have power to undertake marine and fire risks or any other species of insurance whatever than that specified in some one or more of the foregoing subdivisions; but a corporation may be formed for the combined purposes specified in the first and fourth subdivisions; or, upon compliance with the requirements of sections five thousand one hundred ten, five thousand one hundred eleven, five thousand one hundred twelve, five thousand one hundred thirteen, five thousand one hundred fourteen and five thousand one hundred fifteen of the compiled laws of eighteen hundred ninety-seven, for all the purposes combined, or any two or more of them specified in the third, fourth, fifth, sixth, seventh, eighth, ninth and tenth subdivisions. A life insurance company may insure against the death of the insured by accident or against disability on account of accident or sickness, but against no other contingency specified in any subdivision of section one of this act, unless engaged in insuring against such other contingency in this state prior to the first day of January in the year nineteen hundred nine. The provisions of this act shall apply to any company heretofore organized, or that may hereafter be organized under this provision, for any or all of the purposes above specified.

Reinsurance
of risks.

Provisions
applicable.

Am. 1899, Act 177; 1907, Act 172; 1909, Act 207.

As to the general subject of insurance see notes to section 175 *infra*.

LIFE INSURANCE: The object of life insurance is to provide for death by disease or in the ordinary course of nature.—*John Hancock Mut. L. Ins. Co. v. Moore*, 34/46. The business of life insurance has attained enormous proportions. It affects so many interests that the state has attempted to say under what conditions it may be conducted and has created a department for the purpose of supervising the business.—*Mich. Mut. L. Ins. Co. v. Hartz*, 129/104.

THE APPLICATION: False answers written in an application for life insurance by the agent, unknown to the applicant who signs the same, will not avoid the policy.—*Van Houten v. Metropolitan Life Ins. Co.*, 110/682. An incorrect statement of the maiden name of the insured, by the agent in filling out an application, will not avoid the policy.—*Plumb v. Mut. Life Ins. Co.*, 108/94. Policy avoided by misrepresentations in applications as to use of liquors.—*Mallick v. Guaranty Fund Life Society*, 119/151. Waiver by company of right to insist on breach of warranty in application for life insurance.—*Moore v. Mut. Reserve Fund Life Ins. Assn.*, 133/526.

GOOD HEALTH: "Good Health" means a state of health free from any disease or ailment that affects the general soundness and healthfulness of the system seriously.—*Hann v. Nat'l Union*, 97/513; *Brown v. Life Insurance Co.*, 65/314. The condition of good health required at the time of insurance is not violated by a slight indisposition, as headache or colic, only temporary in its effect.—*Tobin v. Modern Woodmen of America*, 126/161. See, also, *Hann v. Nat'l Union*, 97/513; *Pudritzky v. Knights of Honor*, 76/428. A representation that one is in good health and has not been

attended by a physician means that he is free from disease that would seriously affect the general soundness of the system, and that he has not been attended by a physician for a serious ailment.—*Blumenthal v. Berkshire Life Ins. Co.*, 134/216. To have been "attended by a physician" or to have "consulted one professionally," within the meaning of such terms in an application for life insurance, must have been attendance or consultation with reference to some ailment of a serious character and not in relation to such temporary indisposition as all persons are liable to, though considered to be in good health generally.—*Plumb v. Mut. Life Ins. Co.*, 108/94. Immaterial variation in statement as to attendance of physician for illness prior to application for life insurance.—*Id.* Policy avoided by material misrepresentations as to past health of applicant, made in the application.—*Ketcham v. Am. Mut. Accident Association*, 117/521; *Ferris v. Home Life Assurance Co.*, 118/485. Waiver of provision that no obligation is assumed unless the assured is in sound health at the time of insurance.—*Hilt v. Life Ins. Co.*, 110/517. A bill in equity will lie to enjoin the prosecution of a pending suit at law upon a policy of life insurance and to compel the surrender of the policy for cancellation, where a lapsed policy had been reinstated upon a false and fraudulent certificate as to the health of the insured.—*John Hancock Mut. Life Ins. Co. v. Dick*, 114/337.

THE POLICY: Where a company takes a note for premium due and gives renewal receipts therefor, the policy continues in force.—*Mich. Mut. L. Ins. Co. v. Bowes*, 42/19; *Tabor v. Mich. Mut. L. Ins. Co.*, 44/324. A policy is not issued until delivered.—*Malicki v. Guaranty Fund Life Society*, 119/151. Vested interests in policies of life insurance.—*Voss v. Conn. Mut. Life Ins. Co.*, 119/161. The construction of stipulations in a life policy is for the courts.—*New Era Ass'n v. Mactavish*, 133/68. Construction of contract of casualty insurance.—*Stephens v. Penn. Casualty Co.*, 135/189. Reinstatement of lapsed policy.—*Clark v. Insurance Co.*, 107/160; *Mosser v. Life Indemnity Co.*, 115/672. When a policy for the surrender value must be demanded.—*Clark v. Insurance Co.*, 107/160. Under a policy requiring the assured to give immediate notice in writing of an accident or claim, notice need not be given until there has been both an accident and a claim for damages.—*G. R. Electric Light & Power Co. v. Fidelity & Casualty Co.*, 111/148. An assignment of a life insurance policy to secure creditors is valid.—*McDonald v. Birss*, 99/329; *Met. L. Ins. Co. v. O'Brien*, 92/584. Surrender of policy.—*Lockwood v. Mich. Mut. L. Ins. Co.*, 108/334. A policy of insurance issued in Michigan by a mutual benefit association organized under the laws of another state having a branch in Michigan is a Michigan contract.—*Dolan v. Catholic Mutual Benefit Ass'n*, 152/266.

BENEFICIARIES: Insurable interest.—*L. & A. Ins. Co. v. Catlin*, 106/138; *Hosmer v. Welch*, 107/470. Upon the execution of a life insurance policy, the beneficiaries therein named acquire an interest which the law recognizes and which the insured cannot dispose of at his own will.—*Lockwood v. Mich. Mut. Life Ins. Co.*, 108/334. Change of beneficiary in life insurance policy.—*Malbury v. Metropolitan Life Ins. Co.*, 127/568. One of two beneficiaries in a life insurance policy cannot maintain an action for his proportion of the insurance without accounting for his failure to join the other beneficiary.—*Voss v. Conn. Mut. Life Ins. Co.*, 119/161. When insured is not entitled to sick benefits for "total incapacity."—*Shirts v. Phoenix Accident & Sick Benefit Ass'n*, 135/439. Public policy does not forbid an insured selecting as his beneficiary one not having an insurable interest in his life.—*Dolan v. Mutual Benefit Ass'n*, 152/266.

PAYMENT OF INSURANCE: Proofs of death.—*John Hancock Mut. Life Ins. Co. v. Dick*, 117/518. When an assignment of a life insurance policy to a person having no insurable interest in the life of the assignor will be held good.—*Prudential Ins. Co. v. Liersch*, 122/436. Payment of mutual benefit insurance to common law wife.—*Maccabees v. McAllister*, 132/69. Payment of insurance by company, in good faith, to party in possession of policy.—*Voss v. Conn. Mut. Life Ins. Co.*, 131/597. What constitutes total disability under an accident policy.—*Turner v. Fidelity & Casualty Co.*, 112/425; *Hohn v. Inter-State Casualty Co.*, 115/79. Failure of the insured to give notice of an injury within the time required by an accident policy is waived by the insurance company's asking for further information after receiving notice, without suggesting that the notice came too late.—*Hohn v. Inter-State Casualty Co.*, 115/79. When proofs of claim for sick benefit need not be furnished as provided in the policy.—*Hoffman v. Mich. Home & Hospital Ass'n*, 128/323.

MATTERS OF DEFENSE: The burden of proof is upon an insurance company to show a violation of conditions avoiding an otherwise valid policy.—*Malicki v. Chicago Guaranty Fund Life Society*, 119/151. Question of use of liquors, as defense against liability of life insurance policy, where evidence is conflicting, is for jury.—*Malicki v. Guaranty Fund Life Society*, 123/148. Defense against note given for premium for life insurance.—*Sebring v. Hazard*, 128/330. Suicide, in the case of one non compos is as much the result of disease as death by fever or consumption.—*John Hancock Mut. L. Ins. Co. v. Moore*, 34/46. Suicide as a defense against claim of insurance.—*Wasey v. Travelers' Insurance Co.*, 126/119. "Voluntary exposure to unnecessary danger," as an exemption from liability on an accident insurance policy, means a conscious or intentional exposure, involving gross or wanton negligence on the part of the insured.—*Johnson v. Guarantee*

LAWS RELATING TO INSURANCE.

& Accident Co., 115/86. A condition in an accident insurance policy against liability for injuries caused by "voluntary or unnecessary exposure to danger" is limited to cases of intentional exposure to recognized danger, and does not include acts of mere thoughtlessness on the part of the insured.—Irwin v. Accident & Sick Benefit Ass'n, 127/630. An exception in an accident policy of death or injuries resulting directly or indirectly from poison extends to cases where the poison is administered through the mistake of a druggist or physician.—Early v. Standard L. & A. Ins. Co., 113/58. An intentional homicide is an accident within the meaning of an accident policy, if insured himself was in no way responsible for his death.—Furbush v. Maryland Casualty Co., 131/234. Question of whether insured came to his death by homicide or suicide is for the jury, in case of contest.—Furbush v. Maryland Casualty Co., 133/479. An accident insurance company has the burden in an action upon a policy, of proving that an injury to plaintiff, shown to be the result of an accident, was within some exception named in the policy.—Hess v. Masonic Mut. Accident Ass'n, 112/196.

(14) § 7191. SEC. 2. The persons so associating shall subscribe articles of association, which shall contain: Articles, w/
to contain.

First, The names of the associates, and their places of residence respectively;

Second, The name by which the corporation shall be known, which shall not be the same as, nor too closely resembling, the name of any other corporation organized under the laws of this state, or doing business in this state, and the place where its principal office for the transaction of business is to be established, and the period for which it is to be incorporated;

Third, The purposes of the incorporation, as mentioned in the first section of this act;

Fourth, The manner in which the corporate powers are to be exercised; the number of directors and other officers, and the manner of electing the same, and how many of the directors shall constitute a quorum, and the manner of filling all vacancies;

Fifth, The amount of the capital stock, if any, and what proportion is to be paid in before the corporation shall commence business;

Sixth, The time for the holding of the annual meetings of the corporation; and,

Seventh, Any terms and conditions of membership therein which the corporators may have agreed upon, and which they may deem important to have set forth in such articles. And the said corporators shall publish a copy of said articles, with notice of their intention to become incorporated under the same, in some newspaper published in the county where the principal office is to be located, once in each week for at least four weeks before filing such articles as hereinafter provided; and at the time of filing such articles, they shall also file with the secretary of state [commissioner of insurance], proof of such publication.

Am. 1907, Act 173.

"Commissioner of Insurance."—The powers, duties and obligations to which the secretary of state was formerly subject in relation to insurance companies have been transferred to the commissioner of insurance. See section 3 of this compilation.

(15) § 7192. SEC. 3. The persons so associating, shall, after having published such articles and notice, open books Subscription
to stock.

of subscription to the capital stock of the corporation, and keep the same open until the whole amount specified in the articles shall be subscribed; or, if said corporation is to transact business on the mutual plan, then they shall open books to receive propositions, and enter into agreements, as hereinafter specified.

Capital stock. (16) § 7193. SEC. 4. The capital of any stock company organized under this act shall not be less than one hundred thousand dollars, in shares of fifty dollars each, which capital stock may be increased by a vote of two-thirds of the stockholders present or represented at any regular meeting called for that purpose to not more than one million dollars; and no such stock company, and no company organized to do business on the mutual plan, shall be authorized to issue policies or assume any risk whatever until they have deposited with the state treasurer, as security for any liability to insured parties, stocks or bonds of the United States or of any state or territory of the United States, or of any city, county, village, township or school district in this state authorized by act of legislature to issue the same, or first mortgage bonds of corporations organized under the laws of the state of Michigan, to the amount in par value, exclusive of interest, of not less than one hundred thousand dollars, which stocks or bonds shall be retained by the state treasurer, and disposed of as hereinafter directed: Provided, however, That such deposits shall be made within one year from the date of the articles of association: Provided further, That the capital of any stock company organized to do a general indemnity and surety bonding business shall be, for the separate purpose of such surety bonding business and additional to the capital required in any other business in which it may be lawfully engaged, not less than two hundred fifty thousand dollars nor more than one million dollars, and its deposit of securities with the state treasurer as herein provided for shall not be less than two hundred thousand dollars, and such capital and such deposits shall be used solely in, and shall be liable only for the debts and liabilities of such surety bonding business: Provided further, That personal obligations secured by first mortgage on improved and productive real estate within this state, worth at least double the amount of the lien and bearing interest of not less than five per cent per annum, may be received by the state treasurer instead of the bonds or stock hereinbefore provided for in this section. Such mortgages shall be properly assigned to the state treasurer as provided for in section twenty-one of this act, but any examination by the state treasurer or under his direction to satisfy him respecting the title or value of the property mortgaged shall be at the expense of such company; and no mutual insurance company shall commence business, by issuing policies, until it shall have received at least five hundred applications for insurance, on which the premiums shall amount to at least five

Proviso.

Further proviso.

Further proviso, first mortgage.

LAWS RELATING TO INSURANCE.

thousand dollars, nor until the examination by the attorney general and commissioner as hereinafter provided: ^{Proviso, net indebtedness} Provided, That the net indebtedness of said city or county shall not exceed five per cent of the assessed valuation of all the real estate of said city, county, village, township or school district, said valuation to be on the basis of the last preceding equalization of the state board for counties, and the proportionate amount thereof. The term net indebtedness in this section shall be construed to denote the indebtedness of any city, county, village, township or school district, omitting debt created for supplying the inhabitants with water, and deducting the amount of sinking funds available for the payment of such indebtedness: ^{Proviso.} Provided, That such first mortgage bonds of corporations organized under the laws of the state of Michigan shall not be accepted as surety, unless the corporation issuing such bonds shall have paid interest on said bonds and dividends on its capital stock for three successive years immediately preceding the deposit of such security; and in case any of said securities shall depreciate below par, the state treasurer is hereby authorized and directed to cause the corporation which has deposited them to make such depreciation good by additional deposit of such securities as are allowed by law, and to prohibit any corporation from transacting any insurance business within this state until the same shall have been deposited: ^{Further proviso.} Provided further, That all provisions of law relating to the business in this state of companies doing a general surety bonding business, which are organized under the laws of other states or countries, and are doing business in this state, and all other existing laws of this state relating to such surety bonding business in any manner, shall apply, so far as they may be applicable thereto, to companies organized for the purpose of doing a general surety bonding business under the provisions of this act.

Am. 1901, Act 195; 1903, Act 72; 1907, Acts 172 and 174; 1909, Act 297. When the state treasurer will not be required to permit the withdrawal of its deposit.—Life Ins. Co. v. Hamblitzer, 95 / 513.

(17) § 7194. SEC. 5. The articles of association shall be submitted to the attorney general for his examination, and if found by him to be in compliance with this act, he shall so certify to the secretary of state [commissioner of insurance], and the secretary of state [commissioner of insurance] shall thereupon appoint three disinterested persons residing in the county where the principal business office of the corporation is proposed to be established, who shall certify, under oath, if they find such to be the fact, that the provisions in the articles of association, in respect to capital stock, as shown to them to have been fully complied with; and if the company is organized to do business on the mutual plan, that the company is in the actual possession of the applications for insurance, hereinbefore provided for, and ^{Articles to be approved by attorney general.} ^{Examination of company} ^{Certificate of examiners.}

that it was shown to them by the affidavit of the president and secretary of the company that such applications have been taken in good faith and not merely colorably, and that [such] officers believe it to [be] the intention of each of the applicants to receive and pay for policies thereon, when the company shall be prepared to issue the same. A copy of the articles of association, together with such certificate and affidavit, shall thereupon be filed with the secretary of state [commissioner of insurance], and another copy of the articles and a copy of such certificate and affidavit, with the county clerk of the county in which the company's principal office is to be established; and the filing of the same with such officers, and the deposit with state treasurer of the stocks, or bonds, and mortgage securities, as hereinbefore provided, shall be the authority of the company to commence business and issue policies.

Articles filed.

Authority to
commence
business.

"Commissioner of Insurance."—See note to section 14 of this compilation. Failure to file a certified copy of the articles of association with the county clerk cannot be set up by private persons to avoid contracts.—*Jhons v. People*, 25 / 499.

Corporate ex-
istence, how
proved.

(18) § 7195. SEC. 6. Whenever it shall be necessary, in any legal proceedings, to prove the corporate existence of any such company, a copy of the articles of association, with a certificate by the secretary of state [commissioner of insurance], attached, that such copy is a duplicate of the copy on file in his office; that the certificate and affidavit required to be filed by examining commissioners, are also on file in his office, and that it has been made to appear to him by the certificate of the proper county clerk, that another copy of such articles has been duly filed in the office of such clerk, and by the certificate of the state treasurer, that the securities required to be deposited with him have been deposited, shall be prima facie evidence of the corporate existence of the company; and except in proceedings by or under the authority of the state, to question its corporate right by information in the nature of a quo warranto or otherwise, shall be conclusive evidence of the authority of the company to issue policies and transact business as contemplated by its articles, until such authority has been terminated by the expiration of the term of incorporation, or on some one of the grounds hereinafter specified.

"Commissioner of Insurance."—See note to section 14 of this compilation.

Restrictions as
to holding real
estate.

(19) § 7196. SEC. 7. No company formed under this act shall purchase or hold any real estate, except:

1. Such as shall be necessary for its immediate accommodation in transacting business; or,
2. Such as shall have been conveyed or mortgaged to the company in good faith, by way of security for debts; or,
3. Such as shall have been conveyed to the company in satisfaction for debts; or,

4. Such as shall have been purchased at sales upon judgments, decrees, or mortgages in favor of such company, or held or owned by it; and all real estate obtained by virtue of any provisions of this section, except that mentioned in the first subdivision, shall be sold or disposed of within five years after the title has been perfected in such company.

(20) § 7197. SEC. 8. The directors of any company organized under this act shall have power to make such by-laws, not inconsistent with the constitution and laws of this state, or with their articles of association, as they may deem necessary for the government of the officers and members of the company, and the conduct of its affairs. By-laws.

(21) § 7198. SEC. 9. The bonds, or stocks and mortgage securities deposited by any such company with the state treasurer, shall be held by him as security for policy holders in such company; but so long as it continues solvent, the company shall have the right from time to time to collect and receive the dividends or interest thereon, and to withdraw any of the same, on depositing with the state treasurer other securities of the kinds specified, so that the amount in his hands for the security of policy holders, at any time, shall not be less than one hundred thousand dollars, exclusive of interest. If at any time a claim shall be made against any such company on one of its policies, and the same shall not be adjusted and paid, and the claimant shall recover judgment thereon against the company, the state treasurer, on being served with an affidavit by the claimant or his attorney, setting forth the recovery of the judgment, and that the same has remained unpaid for three months, and that no proceedings are pending for the review or reversal of the same, shall proceed to sell at the current market value, sufficient of the stocks or bonds so deposited with him, to satisfy the amount of such judgment, together with one per centum for his services and expenses; or, if said stocks or bonds shall previously have been disposed of for the satisfaction of claims, then he shall proceed to collect sufficient of the mortgage securities to pay the amount of the claim mentioned in such affidavit, with his reasonable costs and expenses; and said company, after notice of the service of such affidavit, shall not be at liberty to issue any new policies until any deficiency of securities caused by the necessity of meeting such claims, shall have been made good by further deposit with said state treasurer of the like securities: Provided, however, That if any such company shall become insolvent, and proceedings shall be taken in equity with a view to its dissolution, nothing in this section contained shall prevent an equal and just distribution of all its assets, including the securities so deposited with the state treasurer, among the persons equitably entitled thereto. State treasurer to hold deposit.
When company may receive interest.
When state treasurer may sell securities.
Company restricted from issuing policies.
Proviso.

(22) § 7199. SEC. 10. No company organized or existing under any authority whatsoever other than the statutes of this state shall be at liberty to transact the business of Companies to make deposit.

Unlawful to
solicit before
making.

Proviso as to
companies
having de-
posit in other
states.

life insurance within this state until such company, in addition to the requirements now made by law, shall have deposited with the state treasurer at least one hundred thousand dollars of the like securities required to be deposited by companies formed under this act, which shall be held as security for any losses suffered by policy holders of said company, upon the same terms and conditions, and with the same authority of sale or collection to satisfy judgments, as are set forth in the last preceding section; and any person who shall solicit and obtain within this state applications for insurance upon lives or issue policies of insurance upon lives, or contracts, guarantees or pledges for the payment of annuities, or endowments to the families or representatives of policy or certificate holders, in any company not organized under the statutes of this state, before such securities are deposited, shall be liable to a penalty of one hundred dollars for every application obtained, policy issued, or contract, guaranty or pledge made, to be sued for and recovered in the name of the people by the attorney general or prosecuting attorney of the proper county either by action for debt or criminal prosecution; and any person who shall have paid to any agent of such company any premium moneys before such securities are deposited shall be entitled to recover the same back from such agent, or, at his option, from the company, by action of assumpsit to be brought at any time within six years after such payment: Provided, however, That when, by the statutes of any other state, life insurance companies organized or doing business therein are required to keep on deposit with the state treasurer, or other state officer, securities for the protection of policy holders generally, and any such company shall furnish to the commissioner of insurance of this state the certificate of the proper officer of such state showing the amount and character of the securities so deposited with him, and it shall appear therefrom that the said securities are equal in market value and availability to one hundred thousand dollars, and that a portion equal in market value of fifty thousand dollars is of stocks or bonds of the United States, or of this state, or of any city or county in this state authorized by act of legislature to issue the same, or of state, county or city bonds, or of stocks of the state where such company or association is organized, or of bonds or mortgages on improved real estate worth double the sum loaned thereon, and it shall further appear from the laws of such state that the securities so deposited are subject to be made available to satisfy judgments of policy holders, in any manner corresponding to that provided for the care of securities deposited under this act, the commissioner of insurance shall thereupon be authorized to issue to such company an authority or license to transact the business of life insurance within this state until the thirty-first day of January of the succeeding year without any such deposit of securities with the state treasurer of this state as is above pr

vided. And upon compliance with the provisions of this act and the laws of the state of Michigan, the commissioner of insurance shall be authorized to issue a license or authority to transact said business, annually thereafter for the period of one year: Provided, That life insurance companies organized under the laws of any foreign government may be required to keep on deposit, with the state treasurer of this state, or with some state officer of one of the United States, or with trustees, for the benefit of policy holders resident in the United States, said trustees being residents or corporations of this or some other state, securities in which any such company is authorized to invest, to an amount at least equal to the net value of the policies issued by said company to residents of these United States as computed by the commissioner of insurance: Provided further, That such companies shall be required to pay taxes upon securities so deposited in this state on the same principle as is required under section three thousand eight hundred thirty-four of the compiled laws of eighteen hundred ninety-seven of insurance companies organized under the laws of this state. The liabilities to be deducted as provided in such section shall be only the liabilities of such company to residents of these United States as computed by the commissioner of insurance.

When annual license to issue.

Proviso.

Further proviso.

Am. 1903, Act 74.

NOTE.—Act 29 of 1877 (C. L. '97, 7221) provides that sections 10 and 29 of the amendatory act of 1871 "shall not be construed so as to include, apply to, or in anywise affect mutual benefit, co-operative and other benevolent associations, organized or to be organized within this state, under and by virtue of the provisions of an act entitled 'An act to provide for the incorporation of co-operative and mutual benefit associations,' approved April 3, 1869." See note to section 87 of this compilation.

This section was not intended to apply, and does not apply, to co-operative and mutual benefit associations organized under any law of this state.—*Rensenhouse v. Seeley*, 72/612. The collection of assessments by the agent of a foreign mutual benefit society is such a transaction of business as is prohibited by this section, and the company cannot maintain an action to recover such assessments from its agent.—*Mut. Ben. Society v. Lester*, 105/718. (Citing C. L. '97, 10467.) See also *Seamans v. Temple Co.*, 105/400; *People v. Hawkins*, 106/482. And assessing members for the payment of death losses which occurred after a refusal to license is doing business prohibited by law.—*Stamm v. N. W. Mut. Ben. Assn.*, 65/317. An insurance company cannot defend against the contract contained in its policy upon the ground that it had no authority to do business within this state.—*Clay F. & M. Ins. Co. v. Huron S. & L. Mfg. Co.*, 31/346.

(23) § 7200. SEC. 11. It shall be the duty of the president, or vice-president and secretary, or actuary, or a majority of the directors or trustees of any life insurance company transacting business within this state annually, in the month of January, to prepare, under oath, and deposit with the secretary of state [commissioner of insurance] a statement, showing:

Annual statements.

1. The number of policies issued during the year;
2. The amount of insurance effected thereby;
3. The amount of premiums received during the year, and what portion thereof was received within this state, or on risks upon the lives of persons resident therein;
4. The amount of interest and other receipts, specifying the items;

Contents of.

5. The amount of losses paid during the year;
6. The amount of losses claimed which remain unpaid, and what portion thereof are disputed, and the ground on which the company disputes the same;
7. The expenses for the year, stating separately the sum paid to officers as salary, fees, or other compensation;
8. The whole number of policies in force;
9. The amount of liabilities or risks on such policies, and of all other liabilities;
10. The amount of the capital stock, and how much thereof is paid in;
11. The amount of accumulation, specifying whether received upon insurance, annuities, or how otherwise;
12. The amount of assets, and manner in which they are invested, specifying the amount in real estate, on bond and mortgage, stocks, loan on stocks, premium notes, or other securities, and the cash or market value thereof;
13. The amount of dividend if any, declared in favor of policy holders, and what proportion thereof has been paid, and also the amount of dividend, if any, declared in favor of stockholders, and what proportion thereof has been paid;
14. A tabular statement of the policies in force for the whole term of life, showing how many thereof for each age of life, and for what amount of risk, were issued or in force for the first year of the existence of the company, during the second year, and so on up to the time of making such statement;
15. A tabular statement of the policies in force for a shorter period than the whole term of life, showing how many thereof for each age of life, and for what amount of risk were issued or in force during the first year of the existence of the company, during the second year, and so on up to the time of making such statement. And the secretary of state [commissioner of insurance] shall prepare and furnish to every company applying therefor, printed forms for the statements herein required; and no company in default in making such statement, shall receive any application, or issue any policy of insurance while so in default, under a penalty of one hundred dollars for every such application or policy, to be recovered of the agent or officer taking or issuing the same, in the same manner that the penalties heretofore provided for are recovered; and any person paying any premium money to such company, or to any agent thereof, upon application made, or policy issued while the company is so in default, shall be entitled to recover the same from such company, or, at his option, from the agent securing the same, in an action of assumpsit. It shall be the duty of the secretary of state [commissioner of insurance] to arrange the information contained in the statements required in this section, in tabular form, or abstracts, and so report the same annually to the governor, and to cause the same to be published in pamphlet form.

Penalty for
doing business
while in
default.

Report of
commissioner
of insurance.

"Commissioner of Insurance."—See note to section 14 of this compilation.
 Mich. Mut. Ins. Co. v. Detroit Com. Council, 133 / 411.

(24) § 7201. SEC. 12. Whenever the secretary of state [commissioner of insurance] shall have reason to suspect the correctness of any annual statement, or that the affairs of the company making the same are in an unsound condition, it shall be his duty to cause an examination to be made into the books, papers, and securities of such company, at its expense, and for that purpose he shall be vested with power to examine under oath any of the officers or agents of such company, relative to the business and assets thereof, and to make any other or further inquiries necessary for obtaining full information of its condition; and if in his opinion the condition of the company is such as to render it improper that it should continue to issue policies in this state, he shall have the power to revoke the license of such company; and whenever he shall deem it for the public interest so to do, he shall publish the result of such investigation in such newspaper as he shall select, or if the company is one organized under the laws of this state, then in some newspaper published in the county where the principal business office of the company is located, and he shall call the attention of the attorney general to the information obtained, whose duty it shall be to apply to the supreme court for an order requiring the company to show cause why their business within the state should not be closed, and such court may give direction for the hearing of the proofs and allegations of the parties; and in case it shall appear to the satisfaction of the court, from said proofs and allegations, that the assets and funds of the company are not sufficient to warrant its continuing to issue policies, the said court shall make an order prohibiting such company from issuing any further policies, and it shall thereupon become unlawful for the company, or any of its agents or officers, to receive any further applications or to issue any further policies, or make any further contracts of insurance. The securities so deposited with the state treasurer shall remain in his hands, notwithstanding the company may cease or be prohibited to do business within the state, and shall only be withdrawn on the order of the supreme court, or when the officers of the company shall show by affidavit to the satisfaction of the secretary of state [commissioner of insurance] and state treasurer that the risks for which the company remains liable, and for the security of which the same are held, are less than the securities so deposited, in which case the company may be permitted to withdraw the surplus securities over and above the risks which then remain.

When commissioner of insurance to examine a company.

May revoke license.

Publish result of investigation.

Attorney general to apply for order to show cause.

When supreme court to issue order.

Securities to remain with state treasurer.

How same may be withdrawn.

"Commissioner of Insurance."—See note to section 14 of this compilation.
 The legislature may provide for an examination into the affairs of insurance companies doing business in this state and may enforce such examination by mandamus.—People v. State Ins. Co., 19 / 392. The commissioner can revoke a license only upon the investigation and proceedings, and in the particular cases, fixed by the statutes.—Nat'l Life Ins. Co. v. Commissioner, 25 / 321. After the commissioner has revoked the authority of a foreign insurance company, it cannot recover upon premium notes, upon

which, by the terms of its policies, payments fall due in advance.—*American Ins. Co. v. Stoy*, 41/385. The state treasurer will not be required to permit the withdrawal of securities, when the condition of a company's affairs are such as to render further business imprudent, and when the death claims and policies outstanding approximate the deposit; nor unless such application therefor, as the statute contemplates, has been made.—*Imperial Life Ins. Co. v. State Treasurer*, 95/513.

How corporate franchises or right to do business may be forfeited.

Supreme court may declare such forfeiture.

Penalty for false statement.

Duty of commissioner thereunder.

Companies to be bodies corporate and politic.

Amendments to articles.

Notice of meeting.

Amendments submitted to attorney general.

(25) § 7202. SEC. 13. Any false statement in any report required to be made under this act, or any statement so made as fraudulently to conceal the real facts, if intentionally so made, shall, if the company be organized under the laws of this state, be cause of forfeiture of the corporate franchises; and if the company be organized under the laws of any other state or government, be cause of forfeiture of the right to transact business within this state, and such forfeitures may be declared by the supreme court, in any proper proceeding instituted by the attorney general for the purpose; and any officer or agent guilty of any such false or fraudulent statement, or of any intentional violation of the provisions of this act, or who shall aid or abet others in any such violation, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punishable by fine not exceeding one thousand dollars, or by imprisonment in the county jail not exceeding three months, or by both such fine and imprisonment; and it shall be the duty of the secretary of state [commissioner of insurance] to notify the prosecuting attorney of the proper county, of any offense under this act which may come to his knowledge, and it shall thereupon become the duty of such prosecuting attorney to cause proceedings to be taken for the punishment thereof.

(26) § 7203. SEC. 14. All companies formed under this act shall be deemed bodies corporate and politic, and shall be subject to all the provisions of the general laws of this state regarding corporations, so far as the same may be applicable; and they may maintain all proper suits at law and in equity against their members and stockholders, or any other person or persons, and be liable to be sued on any obligation they may have assumed, or for any loss which may have occurred, if payment for such loss is withheld more than sixty days after proofs thereof are furnished.

(27) § 7204. SEC. 15. Any company formed under this act shall have the power to amend its articles of association, at any regular meeting of the stockholders or members, called by the directors for that purpose. But notice of such meeting and of the purpose for which it is called shall be served on each of the stockholders, or, if it is a mutual company, on each of the members, either personally or by directing the same through the postoffice, to the last known postoffice address of such stockholder or member, at least three weeks previous to such meeting. But such amendments shall not take effect until submitted to the attorney general, and certified by him not to conflict with the constitution or laws of this state, nor until a copy thereof, signed by the president

and secretary of the company, shall be filed in the office of the commissioner of insurance and of the county clerk where the original articles were filed; and any company organized to transact the business of life insurance or insurance against accident or sickness under any laws of this state, may reorganize under this law, and have the benefit of all its provisions, by a vote of the stockholders, or, if it be a mutual company, then by a vote of the members called for that purpose, in pursuance of its present articles, on entering into new articles of association, signed by its charter officers, setting forth the particulars required by the second section of this act, and filing a copy of such articles with the commissioner of insurance and the proper county clerk, after such a certificate of the attorney general has been obtained as is required when articles are amended; and such company, in so reorganizing, shall be at liberty to make any change in its mode of doing business, not inconsistent with the provisions of this act, and to increase its capital stock, or to retire any guaranteed capital stock, as the stockholders or members may deem proper; but in so reorganizing they shall be subject to all the provisions of this act in regard to the deposit of securities, and to all its other provisions in the same manner and to the same extent as if such company had not previously had a corporate existence.

Where to be filed.

Companies formerly organized to have benefits of act.

Am. 1899, Act 177.

(28) § 7205. SEC. 16. All insurance companies insuring life within this state, and not deriving corporate existence from its laws, shall annually, at the time of filing their annual report with the commissioner of insurance, pay to the state treasurer a tax of two per centum on all premiums received in cash or otherwise, by such companies or their agents within this state, or from insured parties residing therein during the preceding year; and in case of neglect or refusal of such company to pay such tax within ten days after the filing of such report, the state treasurer may proceed to collect the same out of the interests or dividends on any securities that such company may have deposited with him, as hereinafter provided; and in case no such securities are deposited, then it shall not be lawful for the company in default to receive any application for insurance, or to issue any policy, until such tax is paid; and any agent or officer receiving any such application, or issuing such policy, while such default continues, shall be liable to a penalty of one hundred dollars, to be collected in the same manner with the other penalties hereinbefore provided; and the specific tax herein provided for shall be in lieu of all other taxes in this state.

Specific tax of two per cent to be paid by foreign companies.

When state treasurer may collect tax.

Construction of this section, prior to the amendment of 1875, with section 7 of this compilation.—Conn. M. L. Ins. Co. v. State Treasurer, 31 / 6.

(29) § 7206. SEC. 17. No policy of insurance on life issued after this act shall take effect, by any company or

Forfeiture of policy.

ganized under the laws of this state, shall be forfeited or become void by the non-payment of any premium thereon, after the third, any further than as follows: The net value of the policy when the premium becomes due and is not paid shall be ascertained according to the "American experience table" rate of mortality, with interest at four per centum per annum. A surrender charge shall be first deducted from such net value on the following basis, to wit: From policies that have paid three full years' premiums, forty per cent; from policies that have paid four full years' premiums, thirty-six per cent; from policies that have paid five full years' premiums, thirty-two per cent; and so on in like manner decreasing the discount four per centum for each full year's premium paid until the discount is exhausted, when no surrender charge shall be made. After deducting the surrender charge from the net value, the remainder shall be considered a net single premium of whole life non-participating insurance, and the amount it will insure shall be determined according to the age of the party at the time when the unpaid premium became due and the assumptions aforesaid in regard to rate of interest and table of mortality. In case of any indebtedness on any policy, such indebtedness shall be first deducted from the net value remaining after deducting the discount, and the remainder, if any, shall be used as the net single premium as aforesaid.

Where a company takes a note for premium due and gives renewal receipts therefor, the policy continues in force and the company cannot afterward insist upon its forfeiture as for non-payment.—Mich. Mut. Life Ins. Co. v. Bowes, 42/19; Tabor v. Mich. Mut. Life Ins. Co., 44/324. And a bill in equity lies to re-establish the policy if surrendered.—Tabor v. Mich. Mut. Life Ins. Co., 44/324. What not deemed a revival of a lapsed policy.—Clark v. Metropolitan Life Ins. Co., 107/160. Non-forfeitable after third payment.—Mich. Mut. Ins. Co. v. Detroit Com. Council, 133/411.

Company to
furnish data
annually.

Rate of inter-
est, etc.

Fee.

Proviso.

(30) § 7207. SEC. 18. Every company doing a business of life insurance within this state shall annually in the month of January, furnish the secretary of state [commissioner of insurance] the data necessary for determining the amount of its liabilities, and the valuation of all its outstanding policies to be made by the secretary of state [commissioner of insurance], or under his authority, and in making such valuation, the rate of interest to be assumed shall, after and including the year eighteen hundred and ninety-six, be four per centum per annum, and at the election of any such insurance company such rate of four per centum shall be assumed any year prior to eighteen hundred and ninety-six, and the rate of mortality shall be that established by the "American experience life table," as shown in the schedule hereto annexed, and such company shall pay the secretary of state [commissioner of insurance], as a compensation for such estimate, one cent for each thousand dollars insured: Provided, That where, by the laws of any other state, an annual valuation is required to be made by an insurance commissioner or other state officer, the official certificate of any such commissioner or

officer, being filed with the secretary of state [commissioner of insurance], and showing the annual official valuation of the policies of any company doing business within such state, and showing also the basis of such valuation, shall be sufficient, and stand in the place of any valuation of the policies of such company, by or under the direction of the secretary of state [commissioner of insurance] of this state; but no company shall be permitted to transact business within this state, unless the amount of its assets shall equal the net value of all its outstanding obligations, as determined according to the assumptions in regard to rates of interest and mortality as hereinbefore provided; and in case the assets of any company transacting business within this state shall at any time be less than is required by the provisions of this act, the secretary of state [commissioner of insurance] shall serve a written notice upon the person designated by such company to receive service of process under the laws of this state, or shall address such notice by mail to the principal office of such company, and publish the same at least three times in some newspaper circulated daily in this state; and if, after the expiration of ten days from the service of publication of such notice, any agent or officer of such company shall receive applications for policies, or issue policies, while such deficiency of assets exists, and the cost of giving such notice remains unpaid by such company, he shall be subject to the penalties provided in section ten of this act: Provided further, That when the certificate of the secretary of state [commissioner of insurance] of the official valuation of the policies issued by any company organized under the laws of this state, shall not be accepted by any other state in lieu of a valuation of the same by the insurance officer of such other state, then all companies organized under the laws of such other state, shall be required to have a separate valuation made under the authority of the secretary of state [commissioner of insurance] of this state, as herein provided.

Companies prohibited to transact business, etc.

Commissioner to serve notice, etc.

Notice to be published.

Further proviso.

"Commissioner of Insurance."—See note to section 14 of this compilation. The method of taxation provided is not obnoxious to the constitutional requirement of uniformity.—Mich. Mut. Life Ins. Co. v. Hartz, 129/104. This section clearly recognizes that, to arrive at the net assets of the company, it is necessary to deduct from its gross assets its liabilities; and it is equally clear that the property owned by an insurance company cannot be said to be more than the difference between these two sums.—Mich. Mut. Ins. Co. v. Detroit Com. Council, 133/411.

(31) § 7208. SEC. 19. If any company insuring life within this state shall, by means of any advertisement, circular, notice or statement, printed or written, published, posted, or circulated through and by the agency of any officer, agent, or other person, or by any other means, falsely represent or hold out to the public that the capital stock of such company is greater than its actual amount, or that the accumulation of such company is greater than its actual cash or market value, every director, officer, or agent of such company guilty of any participation therein, shall be deemed

False representations as to amount of capital.

Penalties
therefor.

guilty of a misdemeanor, and on conviction thereof, shall be punished by a fine not exceeding one thousand dollars, or by imprisonment in the county jail not exceeding three months, or by both such fine and imprisonment, in the discretion of the court; and if any such company, after any such false advertisement, circular, notice, or statement shall have been published, posted or circulated, shall receive any money, note, or obligation for the payment of money, from any person as a consideration for any insurance made, or policy issued or to be issued by such company, such money, note or obligation shall be deemed and taken to have been received without consideration; and the directors of such company, and any officer or agent receiving the same, shall be jointly and severally liable in an action of assumpsit for the repayment thereof, and shall also, in like manner, be liable to the person insured, for the amount of the insurance. And any such false advertisement, circular, notice or statement, shall be sufficient ground

When attorney general
may institute
proceedings.

for proceedings on the part of the attorney general, in the supreme court, for a forfeiture of the chartered privileges of such company, or for an order prohibiting the further transaction of business by it within this state: Provided, That no such forfeiture shall be declared on that ground, solely, if it shall appear either that the publication was by mistake, or that the directors, officers, or agents making the same have been dismissed from the service of such company, and that the company has published such true statement of its affairs as may have been directed by the attorney general, or such court.

Proviso.

Protection of
companies
against false
medical ex-
aminations.

(32) § 7209. SEC. 20. Any physician who, as medical examiner for any such company, or as the reference of, or medical examiner for any person seeking insurance therein, shall knowingly make any false statement or report to the company, or any officer thereof, concerning the bodily health or condition of any applicant for insurance, or concerning any other matter or thing which might affect the propriety or prudence of granting such insurance, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be liable to a fine not exceeding one thousand dollars, or to imprisonment in the county jail not exceeding three months, in the discretion of the court, and he shall also be liable to the company in an action on the case for the full amount of any insurance obtained from such company by means or through the assistance of such false statement or report.

Report of company's examining physician as evidence on the question of the soundness of health of the insured.—*Rhode v. Life Ins. Co.*, 129 / 112; *Rhode v. Life Ins. Co.*, 132 / 503.

Deposited
mortgages to
be assigned to
state treasurer.

(33) § 7210. SEC. 21. The mortgages authorized to be deposited with the state treasurer, under this act, shall be made or assigned to him in his name of office, but shall not be subject to assignment or sale by him, except as the company depositing the same may become entitled to receive the

same back according to the conditions of this act; but said state treasurer may enforce the same in his name of office, whenever necessary to pay claims as hereinbefore provided. The custody of any securities by the state treasurer under this act, shall be deemed the custody of the state, and any sale, transfer by hypothecation, or conversion of any such securities by the state treasurer, or by any officer, clerk, or other person employed in his office, except as authorized by this act, shall be deemed an act of embezzlement, and shall be punished by imprisonment in the state prison not more than fourteen years, or by fine not exceeding two thousand dollars, or by both such fine and imprisonment in the discretion of the court.

When same may be enforced.

Custody of securities deemed custody of the state.

(34) § 7211. SEC. 22. The business of insuring lives within this state, by any private individual, association, or partnership, or by any incorporated company, organized or existing under any authority whatsoever, other than the statutes of this state, is hereby, except as is provided by this act, wholly prohibited; and any person who shall solicit or obtain within this state, applications for insurance upon lives by any such private individual, association, partnership, or incorporated company, contrary to the provisions of this act, shall be liable to a penalty of one hundred dollars for every application obtained, to be sued for and recovered in the name of the people, by the attorney general, or prosecuting attorney of the proper county, either by action of debt or criminal prosecution; and any person who shall have paid to any agent of such unauthorized individual, association, partnership, or company, any premium moneys for insurance granted or to be granted, shall be entitled to recover the same back from such agent, or at his option, from the person, association, partnership, or company for which he acted, by action of assumpsit, to be brought at any time within six years after such payment.

Prohibiting the insuring of lives contrary to statutes.

Penalty for violation.

How money may be recovered from unauthorized agent or company.

As to the transaction of Insurance business prohibited by law, see notes to section 22 of this compilation.

(35) § 7212. SEC. 23. It shall be lawful for any husband to insure his life for the benefit of his wife, and for any father to insure his life for the benefit of his children, or of any one or more of them; and in case that any money shall become payable under the insurance, the same shall be payable to the person or persons for whose benefit the insurance was procured, his, her or their representatives or assigns, for his, her or their own use and benefit, free from all claims of the representatives of such husband or father, or of any of his creditors; and any married woman, either in her own name or in the name of any third person as her trustee, may cause to be insured the life of her husband, or of any other person, for any definite period, or for the term of life, and the moneys that may become payable on the contract of insurance, shall be payable to her, her representatives or as-

Insurance free from all claims of creditors.

Married woman may insure her husband's life.

signs, free from the claims of the representatives of the husband, or of such other person insured, or of any of his creditors; and in any contract of insurance, it shall be lawful to provide that on the decease of the person for whose benefit it is obtained, before the sum insured shall become payable, the benefit thereof shall accrue to any other person or persons designated; and such other person or persons shall, on the happening of such contingency, become the lawful owner or owners of the policy of insurance, and entitled to enforce the same to the full extent of its terms, notwithstanding he, she or they may not at the time have any such insurable interest as would have enabled him, her or them to obtain a new insurance.

Under this section and C. L. '97, 8695-6, sections 472, 473 *infra*, a wife may insure her husband's life in her favor, with a provision that, in case of her death first, the insurance be paid to their children or to their guardian, if under age.—*Mut. Ben. Life Ins. Co. v. Bank*, 68/116. But this section, which protects the money payable on a life insurance policy taken out by a husband or father for the benefit of his wife or children, from the claims of creditors, does not cover the assignment to them of a policy payable to himself, his executors, or administrators or assigns.—*Savings Bank v. McLean*, 84/625. Payment of mutual benefit insurance to common-law wife.—*Maccabees v. McAllister*, 132/69. Public policy does not forbid an insured selecting as his beneficiary one not having an insurable interest in his life.—*Dolan v. Catholic Mutual Benefit Ass'n*, 152/266.

Companies may receive benefit of amendments to constitution.

Proceedings to secure such benefit.

Effect on policies and contracts.

When officers of corporations to be trustees for certain purposes.

(36) § 7213. SEC. 24. In case any amendment to the constitution shall hereafter be adopted which shall authorize such corporations to organize for perpetual existence, or for any period longer than that now permitted, any corporation that may be formed or reorganized under this act shall, by a vote of the stockholders or members to that effect, adopted at any annual meeting, or at any special meeting duly called for the purpose, be entitled to the benefit of such constitutional amendment; and its corporate existence shall thereupon and thereby be extended for the period specified in such vote, within the limits of such amendment; and all the contracts and policies of the corporation shall be as valid, binding and effectual, for all purposes, as if the original term of corporate existence had been the same as prescribed by such vote for the extension thereof.

(37) § 7214. SEC. 25. In case no such constitutional amendment shall be adopted during the corporate existence of any company organized under this law, and in case the stockholders of members thereof shall not, before the expiration of such corporate existence, organize a new corporation for the same purposes, on the basis of receiving the assets of the old corporation, and assuming the performance of all its existing contracts and policies, the officers of such corporations, at the expiration of its corporate life, shall be trustees for the purpose of keeping its funds invested for the security of policyholders, settling its affairs, and fulfilling and discharging its obligations, and as such, shall be under the control and direction of the proper circuit court in chancery, or other equity court, as in the case of other trustees; but the officers of such

corporation shall not, at the time of the termination of the corporate existence, or in anticipation thereof, make or declare any dividend, or, except in satisfaction of the demands of creditors or policy holders, make any other disposition of the assets of the corporation, or of any part thereof, which shall leave the available amount of such assets below the amount of existing debts and of the net value of outstanding policies, to be determined as hereinbefore provided; and any such attempted dividend or distribution shall be void, and may be enjoined on the application of the secretary of state [commissioner of insurance]; and such officers, before entering upon their duties as such trustees, shall give bond to the people of the state to the satisfaction of the secretary of state [commissioner of insurance], and to be filed with him, conditioned for the faithful discharge of their duties as such; and they shall be at all times subject to the supervision of the secretary of state [commissioner of insurance], in the same manner that corporations are under the provisions of this act; but such trustees shall not be at liberty to make dividends among stockholders, nor to members, unless in reduction of premiums on outstanding policies, except under the order of the proper court of equity; nor shall such court be at liberty to order any such dividends as shall at any time reduce the available assets of the company below the amount of existing debts and the net value of outstanding policies, to be determined as hereinbefore provided.

Trustees to
give bonds.

Sec. 26 repeals "all acts and parts of acts contravening the provisions of this act." "Commissioner of Insurance."—See note to section 14 of this compilation.

(38) § 7215. SEC. 27. That every life insurance company, not organized under the statutes of this state, shall, as a condition precedent to doing business in this state, appoint an agent or attorney resident therein, upon whom all lawful process against the company may be served with the like effect as if served upon the company in the manner provided by law, and said appointment shall stipulate and agree, on the part of the company making the same, that service of lawful process against such company upon such agent or attorney shall be valid service upon such company. A copy of such appointment, duly authenticated, shall be filed with the secretary of state [commissioner of insurance], and shall not be revoked until the same power is given to another resident, and a like copy filed as aforesaid. Service upon such agent or attorney shall be deemed sufficient service upon the company.

Attorney to
be appointed
to receive
process.

"Commissioner of Insurance."—See note to section 14 of this compilation.

(39) § 7216. SEC. 28. That whenever the existing or future laws of any other state of the United States shall require of life insurance companies incorporated or organized under the laws of this state, and having agencies in such other state, or of the agents thereof, any payment for taxes,

Retaliatory.

finest, penalties, certificates of authority, license, or other fees, greater than the amount required for such purposes from similar companies of other states by the then existing laws of this state, then, and in every such case, all life insurance companies establishing or having heretofore [theretofore] established agencies in this state, shall be required to pay for taxes, fines, penalties, certificates of authority, license, or other fees, an amount equal to the amount of such charges and payments imposed by the laws of such other state upon the companies of this state and the agents thereof.

Defining life insurance.

(40) § 7217. SEC. 29. That all corporations, associations, partnerships, or individuals, doing business in this state under any charter, compact, agreement, or statute of this or any other state, involving an insurance, guaranty, contract, or pledge, for the payment of annuities or endowments, or for the payment of moneys to families, or representatives of policy or certificate holders or members, shall be considered and deemed to be life insurance companies within the meaning of the laws relating to life insurance within this state, and shall not make any such insurance, guaranty, contract, or pledge therein, or to or with any citizen or resident of this state, which shall not distinctly state therein the amount of such life benefits, the manner of payment, the period of the continuance thereof, and the amount of the annual, semi-annual, or quarterly premium, or by which the payment of the life benefit assured shall be contingent upon the payment of assessments made upon surviving members; and not until the securities required of life insurance companies are deposited, nor except in accordance with, and under the conditions and restrictions of, the statutes now or hereafter regulating the business of life insurance.

Penalty for doing or attempting to do business for an unauthorized company.

And any person soliciting applications for insurance, or making any such insurance, guaranty, contract, or pledge as aforesaid, before the deposit of such securities, or before compliance with any condition precedent provided by the laws of this state for life insurance companies, shall be liable to a penalty of one hundred dollars for every application obtained, or insurance, guaranty, contract, or pledge made, to be sued for and recovered in the name of the people by the attorney general or prosecuting attorney of the proper county, either by action of debt or criminal prosecution; and any person who may have paid moneys therefor shall be entitled to recover the same back from the person to whom it was paid, or in case such person was an agent, then at his option from the principal of such agent, by action of assumpsit, to be brought at any time within six years after such payment.

How enforced.

Money paid may be recovered.

As to the application of this section to mutual benefit, co-operative and other benevolent associations, see notes to section 22 of this compilation. As to the transaction of unauthorized insurance business, see notes to same section. This section, defining "life insurance companies" under the statutes, and sections 7221, 7522, C. L. 1897 (section 87 and note), providing that this section shall not apply to co-operative and mutual benefit associations, do not prevent such an association from being considered as a life insurance company, within a general statute relating to such companies.—*Citizens' Life Ins. Co. v. Insurance Com'r*, 128 / 85.

(41) § 7218. SEC. 30. The provisions of this act shall apply to any company heretofore organized, or that may hereafter be organized under its provisions, for the purpose of insuring the lives of individuals against death by accident, or for the purpose of paying indemnities for accidental injuries or sickness.

Application
of act.

Am. 1899, Act 177.

(42) § 7219. SEC. 31. No life insurance company doing business in this state shall make or permit any distinction or discrimination in favor of individuals between insureds (the insured) of the same class and equal expectation of life in the amount or payment of premiums or rates charged for policies of life or endowment insurance, or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of the contracts it makes; nor shall any such company or agent thereof make any contract of insurance or agreement as to such contract other than as plainly expressed in the policy issued thereon; nor shall any such company, or any officer, agent, solicitor or representative thereof, pay, allow or give, or offer to pay, allow or give, directly or indirectly, as inducement to insurance, any rebate of premium payable on the policy, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any paid employment or contract for services of any kind or any valuable consideration or inducement whatever not specified in the policy contract of insurance; or give, sell or purchase, or offer to give, sell or purchase as inducement to insurance or in connection therewith any stocks, bonds or other securities of any insurance company or other corporation, association or partnership, or any dividends or profits to accrue thereon or anything of value whatsoever not specified in the policy. Any company which shall violate any of the provisions of this section shall forfeit to the state the sum of five hundred dollars for each violation, to be recovered by the attorney general by appropriate action in any court of competent jurisdiction, and any judgment therefor may be collected in the same manner as is herein provided for collecting judgments rendered in favor of policy holders. And any officer or agent who shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished by imprisonment in the county jail not exceeding one year, or by a fine of not less than fifty dollars and not exceeding five hundred dollars, or by both such fine and imprisonment in the discretion of the court.

Discrimination, certain
not permitted.

Contract
other than
in policy.

Rebate, etc.,
as inducement.

Stocks, bonds,
etc.

Penalty on
company.

Penalty on
officer or
agent.

Am. 1907, Act 181.

The prohibition of discrimination is violated where, by a special contract delivered contemporaneously with a policy, the insured is constituted one of not more than 500 "advisory representatives" of the company, and as such is to receive certain financial benefits, dependent on the amount of insurance in force.—State Life Ins. Co. v. Strong, 127/346. This prohibition of discrimination is applicable to co-operative and mutual benefit associations organized under section 7497, C. L. 1897 et seq. (Sections 62-101 infra.)

This section makes it a misdemeanor for a life insurance agent to pay or allow any rebate of premium as an inducement to insurance.—*Heffron v. Daly*, 133 / 613.

Life insurance company to make no distinction, etc.

Greater premiums shall not be required of colored persons.

Penalty for violation by company.

Punishment of officer, etc.

Powers of insurance commissioner.

(43) § 7220. SEC. 32. That no life insurance company doing business in this state shall make any distinction or discrimination between white persons and colored persons, wholly or partially of African descent, as to the premiums or rates charged for policies upon the lives of such persons, or in any other manner whatever; nor shall [any] such company demand or require a greater premium from such colored persons than is at that time required by such company from white persons of the same age, sex, general condition of health and prospect of longevity; nor make or require any rebate, diminution or discount upon the amount to be paid on such policy in case of death of such colored person insured; nor insert in the policy any condition, nor make any stipulation whereby such person insured shall bind himself or his heirs, executors, administrators and assigns to accept any sum less than the full value or amount of such policy in case of a claim accruing thereon by reason of the death of such person insured, other than such as are imposed on white persons in similar cases; and any such stipulations or conditions so made or inserted shall be void. Any company which shall violate any of the provisions of this section shall forfeit to the state the sum of five hundred dollars for each violation, to be recovered by the attorney general by appropriate action in any court of competent jurisdiction, and any judgment therefor may be collected in the same manner as is herein provided for collecting judgments rendered in favor of policy holders. And any officer or agent who shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment in the county jail not exceeding one year, or by a fine of not less than fifty dollars, and not exceeding five hundred dollars, or by both such fine and imprisonment, in the discretion of the court.

(44) SEC. 33. The commissioner of insurance may, upon written application of the company, vary the standards of mortality and interest required by section eighteen of this act, value policies in groups, use approximations and accept the valuation of the department of insurance of any other state in place of the valuation required by this act; nothing in this paragraph shall be construed as permitting the use of standards of mortality and interest or methods producing reserves lower than those based upon the standard prescribed by said section eighteen; said policies shall be valued in accordance with the terms of the policy contracts.

SCHEDULE.

Table of mortality, based on American experience.

Age.	Numbers living.	Numbers dying.	Expectation of life.	Age.	Numbers living.	Numbers dying.	Expectation of life.	Age.	Numbers living.	Numbers dying.	Expectation of life.
10	100,000	749	48.72	39	78,862	756	28.90	68	43,133	2,243	9.48
11	99,251	746	48.08	40	78,106	765	28.18	69	40,890	2,321	8.98
12	98,505	743	47.44	41	77,341	774	27.45	70	38,569	2,391	8.48
13	97,762	740	46.82	42	76,567	785	26.72	71	36,178	2,448	8.00
14	97,022	737	46.16	43	75,782	797	25.99	72	33,730	2,487	7.54
15	96,285	735	45.50	44	74,985	812	25.27	73	31,243	2,505	7.10
16	95,550	732	44.85	45	74,173	828	24.54	74	28,738	2,501	6.68
17	94,818	729	44.19	46	73,345	848	23.80	75	26,237	2,476	6.28
18	94,089	727	43.53	47	72,497	870	23.08	76	23,761	2,431	5.88
19	93,362	725	42.87	48	71,627	896	22.36	77	21,330	2,369	5.48
20	92,637	723	42.20	49	70,731	927	21.63	78	18,961	2,291	5.10
21	91,914	722	41.53	50	69,804	962	20.91	79	16,670	2,196	4.74
22	91,192	721	40.85	51	68,842	1,001	20.20	80	14,474	2,091	4.38
23	90,471	720	40.17	52	67,841	1,044	19.49	81	12,383	1,964	4.04
24	89,751	719	39.49	53	66,797	1,091	18.79	82	10,419	1,816	3.71
25	89,032	718	38.81	54	65,706	1,143	18.69	83	8,603	1,648	3.30
26	88,314	718	38.11	55	64,563	1,199	17.40	84	6,955	1,470	3.08
27	87,596	718	37.43	56	63,364	1,260	16.72	85	5,485	1,292	2.77
28	86,878	718	36.73	57	62,104	1,325	16.05	86	4,193	1,114	2.47
29	86,160	719	36.03	58	60,779	1,394	15.39	87	3,079	933	2.19
30	85,441	720	35.33	59	59,385	1,468	14.74	88	2,146	744	1.93
31	84,721	721	34.62	60	57,917	1,546	14.09	89	1,402	555	1.69
32	84,000	723	33.92	61	56,371	1,628	13.47	90	847	385	1.42
33	83,277	726	33.21	62	54,743	1,713	12.86	91	462	246	1.19
34	82,551	729	32.50	63	53,030	1,800	12.26	92	216	137	.98
35	81,822	732	31.78	64	51,230	1,889	11.68	93	79	58	.80
36	81,090	737	31.07	65	49,341	1,980	11.10	94	21	18	.64
37	80,353	742	30.35	66	47,361	2,070	10.54	95	3	3	.50
38	79,611	749	29.62	67	45,291	2,158	10.00				

This table immediately follows the act of 1869. C. L. '97, p. 2273. Tables of mortality admissible in evidence.—Cooper v. Railway Co., 66 / 268; Jones v. McMillan, 129 / 86. This table shows the probable expectancy of life but is not conclusive evidence.—Hunn v. Railroad Co., 78 / 528. Except in the absence of evidence to show a greater probability of life.—Nelson v. Railway Co., 104 / 582. See Ford v. Cheever, 105 / 683-4. But this table is not admissible in case of an age under ten years.—Rajnowski v. Railroad Co., 74 / 27.

An Act establishing standard provisions and conditions to be contained in policies of life insurance issued by companies licensed to do business in this state.

[Act 187, P. A. 1907.]

The People of the State of Michigan enact:

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|----------------------------|--|
| Provisions of policies. | (45) SECTION 1. No policy of life insurance shall be issued in this state, unless the same shall contain the following provisions: |
| Premiums in advance. | First, A provision that all premiums shall be payable in advance, either at the home office of the company or to an agent of the company, upon delivery of a receipt signed by one or more of the officers who shall be named in the policy; |
| Days of grace. | Second, A provision for a grace of one month for the payment of every premium after the first year, which may be subject to an interest charge, during which month the insurance shall continue in force, which provision may contain a stipulation that if the insured shall die during the month of grace the overdue premium will be deducted in any settlement under the policy; |
| Policy incontestable, etc. | Third, A provision that the policy shall constitute the entire contract between the parties and shall be incontestable after two years from its date, except for non-payment of premium and except for violations of the conditions of the policy relating to naval and military services in time of war; |
| Statements by insured. | Fourth, A provision that all statements made by the insured, shall, in the absence of fraud, be deemed representations and not warranties, and that no such statement shall avoid the policy unless it is contained in a written application and a copy of such application shall be endorsed upon or attached to the policy when issued; |
| Under statement of age. | Fifth, A provision that if the age of the insured has been understated, the amount payable under the policy shall be such as the premium would have purchased at the correct age; |
| Disposition of surplus. | Sixth, A provision that the policy shall participate in the surplus of the company, and that, beginning not later than the end of the fifth policy year, the company will determine and account for the portion of the divisible surplus accruing on the policy, and that the owner of the policy shall have the right to have the current dividend arising from such participation paid in cash, and that at periods of not more than five years such accounting and payment at the option of the policy holder shall be had. This provision shall not be required in non-participating policies; |
| Loan values. | Seventh, A provision that after three full year premiums have been paid, the company at any time, while the policy is in force, will advance, on proper assignment of the policy and on the sole security thereof, at a specified rate of interest, a sum equal to, or at the option of the owner of the policy, |

less than the reserve at the end of the current policy year on the policy and on any dividend additions thereto, specifying the mortality table and rate of interest adopted for computing such reserve, less a sum not more than two and one-half per centum of the amount insured by the policy and of any dividend additions thereto; and that the company will deduct from such loan value any existing indebtedness on the policy and any unpaid balance of the premium for the current policy year, and may collect interest in advance on the loan to the end of the current policy year; which provision may further provide that such loan may be deferred for not exceeding six months after the application therefor is made. It shall be further stipulated in the policy that failure to pay any such advance or to pay interest shall not void the policy unless the total indebtedness thereon to the company shall equal or exceed such loan value at the time of such failure nor until one month after notice shall have been mailed by the company to the last known address of the insured and of the assignee if any. No condition other than as herein provided shall be exacted as a prerequisite to any such advance. This provision shall not be required in term insurances;

When failure to pay loan not to void policy.

Eighth, A provision which, in event of default in premium payments, after premiums shall have been paid for three years, shall secure to the owner of the policy a stipulated form of insurance, the net value of which shall be at least equal to the reserve at the date of default on the policy and on any dividend additions thereto, specifying the mortality table and rate of interest adopted for computing such reserves, less a sum not more than two and one-half per centum of the amount insured by the policy and of any existing dividend additions thereto, and less any existing indebtedness to the company on the policy. Such provision shall stipulate that the policy may be surrendered to the company at its home office within one month from date of default for a specified cash value at least equal to the sum which would otherwise be available for the purchase of insurance as aforesaid and may stipulate that the company may defer payment for not more than six months after the application therefor is made. This provision shall not be required in term insurances of twenty years or less;

Provisions in event of default in premium payments.

Ninth, A table showing in figures the loan values, and the options available under the policies each year upon default in premium payments, during at least the first twenty years of the policy, beginning with the year in which such values and options become available;

Table of loan values and options.

Tenth, A provision that if, in event of default in premium payments, the value of the policy shall be applied to the purchase of other insurance, and if such insurance shall be in force and the original policy shall not have been surrendered to the company and canceled, the policy may be reinstated within three years from such default, upon evidence of in-

Reinstatement of policy.

	surability satisfactory to the company and payment of arrears of premiums with interest;
Date of settlement.	Eleventh, A provision that when a policy shall become a claim by the death of the insured, settlement shall be made upon receipt of due proof of death, or not later than two months after receipt of such proof;
Table of installments.	Twelfth, A table showing the amounts of installments in which the policy may provide its proceeds may be payable;
Title.	Thirteenth, A title on the face and on the back of the policy correctly describing the same.
	Any of the foregoing provisions or portion thereof relating to premiums not applicable to single premium policies, shall to that extent not be incorporated therein.
	Automatic premium provision.—Mutual Benefit Life Ins. Co. v. Com'r of Insurance, 151 / 610.
Provisions prohibited.	(46) SEC. 2. No policy of life insurance shall be issued or delivered in this state if it contain any of the following provisions:
Relative to policy loans.	First, A provision for the forfeiture of the policy for failure to repay any loan on the policy or to pay interest on such loan while the total indebtedness on the policy is less than the loan value thereof; or any provision for forfeiture for failure to repay any such loan or to pay interest thereon, unless such provision contain a stipulation that no such forfeiture shall occur until at least one month after notice shall have been mailed by the company to the last known address of the insured and of the assignee, if any; or a provision contemplating any proposed benefit not essentially a part of the insurance contract or any connection of the assured with the company other than that of policy holder;
Benefits, not a part of contract.	
Limiting time of actions at law, etc.	Second, A provision limiting the time within which any action at law or in equity may be commenced to less than six years after the cause of action shall accrue;
To take effect before application is made.	Third, A provision by which the policy shall purport to be issued or to take effect before the original application for insurance was made, if thereby the insured would rate at an age younger than his age at date when the application was made, according to his age at last birthday;
Settlement at maturity.	Fourth, A provision for any mode of settlement at maturity of less value than the amount insured by the policy plus dividend additions, if any, less any indebtedness to the company on the policy and less any premium that may by the terms of the policy be deducted, payments to be made in accordance with the terms of the policy. This prohibition shall not apply to sub-standard policies.
Provisions relative to term insurance.	(47) SEC. 3. Policies may be issued in this state providing for not more than one year preliminary term insurance by the incorporation therein of a clause on the face of the policy distinctly specifying that the first year's insurance is term insurance. If the premium charged for term insurance under a limited payment life or endowment preliminary term

policy providing for the payment of all premiums thereon in less than twenty years from the date of the policy, exceeds that charged for life insurance under twenty pay life preliminary term policies of the same company at the same age, the reserve thereon at the end of any year, including the first, shall not be less than the reserve on a twenty pay life preliminary term policy issued in the same year and at the same age, together with an amount which shall be equivalent to the accumulation of a net level premium sufficient to provide for a pure endowment at the end of the premium payment period equal to the difference between the value at the end of such period for such twenty pay life preliminary term policy and the full reserve at such time of such a limited payment, life or endowment policy: Provided, This shall not take effect until January one, nineteen hundred eight.

(48) SEC. 4. No policy of life insurance shall be issued or delivered in this state, until the form of the same has been filed with the commissioner of insurance and after the commissioner of insurance shall have notified any company of his disapproval of any form it shall be unlawful for such company to issue any policy in the form so disapproved. The commissioner's action shall be subject to review by any court of competent jurisdiction.

(49) SEC. 5. The policies of a life insurance company, not organized under the laws of this state, may, if approved by the commissioner of insurance of this state, contain any provision which the law of the state, territory, district or country under which the company is organized, prescribed shall be in such policies, when issued in this state, and the policies of a life insurance company organized under the laws of this state may, when issued or delivered in any other state, territory, district or country, contain any provision required by the laws of the state, territory, district or country in which the same are issued, anything in this act to the contrary notwithstanding.

(50) SEC. 6. This act shall not apply to annuities, industrial policies or to corporations or associations operating on the assessment or fraternal plan: Provided, That contracts may be issued in this state providing for both insurance and annuities on the same life, and this act shall apply only to that part of such contracts providing for insurance, but every such contract providing for a deferred annuity on the life of the insured only, or a deferred annuity issued on a single life, shall, unless paid for by a single premium, provide that in the event of the non-payment of any premium after three full years premiums shall have been paid, the annuity shall automatically become converted into a paid up annuity for such proportion of the original annuity as the number of completed years premiums paid bears to the total number of premiums required under the contract.

"Company,"
construed.

(51) SEC. 7. Wherever the word company is used in this act, it shall be held to include corporations and associations.

Interest,
when added to
principal.

(52) SEC. 8. In ascertaining the indebtedness due upon any loan upon any policy of insurance issued in this state, the interest, if not paid when due, shall be added to the principal of such loan, and shall bear interest at the rate specified in the note or loan agreement.

Added 1909, Act 159.

An Act relating to the provisions of life insurance policies.

[Act 180, P. A. 1907.]

The People of the State of Michigan enact:

Policy to con-
tain entire
contract.

(53) SECTION 1. Every policy of insurance issued or delivered within this state on or after the first day of January, nineteen hundred eight, by any life insurance corporation doing business within the state shall contain the entire contract between the parties. And nothing shall be incorporated therein by reference to any constitution, by-laws, rules, application or other writing unless the same are endorsed upon or attached to the policy when issued.

Nothing in-
corporated by
reference.

Sec. 2 repeals inconsistent acts.

This act has no application to policies issued by fraternal beneficiary associations organized under Act 119 of 1893 (Sections 149-174), which are exempt from the operation of the general insurance laws.—K. O. T. M. M. v. Com'r of Insurance, 155 / 693.

An Act defining the status of persons soliciting life insurance.

[Act 183, P. A. 1907.]

The People of the State of Michigan enact:

Solicitor, how
regarded.

(54) SECTION 1. Any person who shall solicit an application for insurance upon the life of another shall, in any controversy between the assured or his beneficiary and the company issuing any policy upon such application, be regarded as the agent of the company and not the agent of the assured.

Sec. 2 repeals inconsistent acts.

An Act to prohibit misrepresentation by life insurance companies.

[Act 185, P. A. 1907.]

The People of the State of Michigan enact:

(55) SECTION 1. No life insurance company doing business in this state, and no officer, director or agent thereof shall issue or circulate, or cause or permit to be issued or circulated, any estimate, illustration, circular or statement of any sort misrepresenting the terms of any policy issued by it or the benefits or advantages promised thereby, or the dividends or shares of surplus to be received thereon, or shall use any name or title of any policy or class of policies misrepresenting the true nature thereof. Certain estimates, circulars, etc., not to be issued.

(56) SEC. 2. Any officer, director or agent who shall violate the provisions of this act shall be guilty of a misdemeanor, and upon the conviction thereof shall be punished by fine not exceeding one hundred dollars or by imprisonment not exceeding three months, or by both such fine and imprisonment in the discretion of the court. Penalty.

Sec. 3 repeals inconsistent acts.

An Act regulating disbursements by life insurance companies.

[Act 179, P. A. 1907.]

The People of the State of Michigan enact:

(57) SECTION 1. No domestic life insurance company shall make any disbursement of one hundred dollars or more unless the same be evidenced by a voucher signed by or on behalf of the person, firm, or corporation receiving the money and correctly describing the consideration for the payment. If the expenditure be for both services and disbursements, the voucher shall set forth the services rendered and an itemized statement of the disbursements made. If the expenditure be in connection with any matter pending before any legislative or public body, or before any department or officer of any state or government, the voucher shall correctly describe, in addition, the nature of the matter and of the interest of such company therein. When such voucher cannot be obtained the expenditure shall be evidenced by an affidavit describing the character and object of the expenditure and stating the reason for not obtaining such voucher. Certain disbursements to be evidenced by voucher. What to set forth. When evidenced by affidavit.

Sec. 2 repeals inconsistent acts.

An Act regulating life insurance companies and prohibiting the diversion of funds for political purposes.

[Act 182, P. A. 1907.]

The People of the State of Michigan enact:

Money or
property not
to be used, etc.

Liability for
violation of
act.

None excused
from testi-
fying, etc.

Testimony, ■
when not used
against person.

(58) SECTION 1. No insurance company or association, including fraternal beneficiary associations, doing business in this state shall, directly or indirectly, pay or use or offer, consent or agree to pay or use any money or property for or in aid of any political party, committee or organization, or for or in aid of any corporation, joint stock or other association organized or maintained for political purposes, or for or in aid of any candidate for political office, or for nomination for such office or for any political purpose whatsoever, or for the reimbursement or indemnification of any person for money or property so used. Any officer, director, stockholder, attorney or agent of any corporation or association which violates any of the provisions of this act, who participates in, aids, abets, or advises or consents to any such violation, and any person who solicits or knowingly receives any money or property in violation of this act, shall be guilty of a misdemeanor and be punished by imprisonment for not more than one year and a fine of not more than one thousand dollars, and any officer aiding or abetting in any contribution made in violation of this act, shall be liable to the company or association for the amount so contributed. No person shall be excused from attending and testifying, or producing any books, papers or other documents before any court or magistrate upon any investigation, proceeding or trial, for a violation of any of the provisions of this act, upon the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate or degrade him; but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may so testify or produce evidence, documentary or otherwise, and no testimony so given or produced shall be used against him upon any criminal investigation or proceeding.

Sec. 2 repeals inconsistent acts.

An Act relating to the salaries of officers and agents of life insurance companies.

[Act 259, P. A. 1907.]

The People of the State of Michigan enact:

(59) SECTION 1. No domestic life insurance company shall pay any salary, compensation or emolument to any officer, trustee or director thereof, nor any salary, compensation or emolument amounting in any year to more than five thousand dollars to any person, firm or corporation, unless such payment be first authorized by a vote of the board of directors of such life insurance company. No such life insurance company shall make any agreement with any of its officers, trustees or salaried employees whereby it agrees that for any services rendered or to be rendered he shall receive any salary, compensation or emolument that will extend beyond a period of twelve months from the date of such agreement; and no officer, director or trustee who is paid a salary for his services of more than one hundred dollars per month shall receive any other compensation or emolument: *Salary to officers, etc., limited.* Provided, That the limitation as to time contained herein shall not be construed as preventing a life insurance company from entering into contracts with its agents for the payment of renewal commissions or salaries and commissions to any officer, agent or employe based on the amount of business produced. *Certain agreement, unlawful.* No such company shall grant any pension to any officer, director or trustee thereof or to any member of his family after his death. *Proviso, certain contracts with agents. Pensions, not to be granted.*

Am. 1909, Act 46.
Sec. 2 repeals inconsistent acts.

An Act to provide for an extension of the corporate life of life insurance companies organized under the laws of the state, whose term of existence would otherwise expire, and to fix the duties and liabilities of such renewal corporations.

[Act 87, P. A. 1897.]

The People of the State of Michigan enact:

(60) § 7222. SECTION 1. That it shall be lawful for any life insurance corporation, whose term is about to expire by limitation, at any time within two years next preceding the expiration of such term, by a vote of two-thirds of its capital stock, at any annual meeting, or at any special meeting of its stockholders called for that purpose, to direct the continuance of its corporate existence for such further term not *Extension of corporation.*

To file copies
in office of
commissioner.

exceeding thirty years from the expiration of the existing term, as may be expressed in a resolution for that purpose. The president and secretary of such stockholders' meeting shall make and sign duplicate copies of such resolution, and its passage shall be verified by the oath of such secretary attached to each of such duplicates. One of said copies shall be filed in the office of the secretary of state and one with the clerk of the county where the principal office of the corporation is located, and both shall be recorded at the expense of said corporation, and the copies so filed, or the record thereof, or certified copies of either of such records, shall be prima facie evidence of the passage of such resolution and of the extension of said corporate life, provided that the franchise fee, which may be provided by law for new corporations, shall be paid before such term shall be extended.

As to transfer of duties of secretary of state to commissioner of insurance, see section 3.

Renewal,
term of.

(61) § 7223. SEC. 2. The renewal term of such corporation shall begin from the expiration of the former term, and the corporation whose term has thus been renewed shall be the same corporation, and own all its property, and be subject to all its liabilities, have the same stockholders and members and the same officers. The rights of all persons interested in said corporation shall continue as before such extension. The articles of association and by-laws shall continue the same until changed or amended by the corporation in the manner required by law.

Rights of
interested
persons.

CHAPTER IV.—CO-OPERATIVE AND MUTUAL LIFE INSUR- •ANCE.

An Act to revise the laws providing for the incorporation of co-operative and mutual benefit associations, and to define the powers and duties and regulate the transaction of the business of all such corporations and associations doing business within this state.

[Act 187, P. A. 1887.]

The People of the State of Michigan enact:

Who may
incorporate.

(62) § 7497. SECTION 1. That any number of persons, not less than seven, who shall be citizens of this state, desiring to become a body corporate for the purpose of carrying on, upon the assessment or co-operative plan, the business either of insuring the lives of members or of providing to members indemnity for disability or death by accident, may, by complying with the provisions hereof, become, with those that may hereafter be associated with them, or their suc-

cessors, a body corporate and politic. If the insurance is to accrue through the death of the insured person, the contract shall be of life insurance; if through the accidental death only, or the physical disability from accident to the insured, it shall be casualty insurance: *Provided*, That no corporation shall be organized hereunder for both of such purposes, except that any company organized as a casualty or sick benefit insurance company, association or society under this act may include in any policy issued by such company a funeral benefit not exceeding one hundred dollars upon death from any cause.

Am. 1899, Act 67.

See notes to section 22 of this compilation.

This act applies only to corporations organized under it and cannot be made to apply to insurance contracts made, or attempted to be made, prior to its enactment.—*Smith v. Pinch*, 80/335. These associations are, strictly speaking, insurance organizations, whenever, in consideration of periodical contributions, they engage to pay the member or his designated beneficiary, a benefit upon the happening of a specified contingency.—*Renssenhouse v. Seeley*, 72/617. A beneficiary society (organized under the act of 1869), providing only for the payment of a certain sum in case of death and for periodical payments in case of sickness or disability, is not authorized to conduct an endowment insurance business.—*Walker v. Commissioner*, 103/344. An amendment of the articles of association of a corporation organized under the act of 1869, so as to conform to the provisions of this act, made before this act took effect, was premature.—*Mich. Mut. Ben. Ass'n v. Rolfe*, 76/146. The reorganization of companies organized under the act of 1869 is not involved in a suit by a private party; the state only can inquire into that.—*Meurer v. Mut. and Ben. Ass'n*, 95/451. This act discussed.—*Calkins v. Angell*, 123/77. Rival organizations for mutual benefit insurance.—*Great Hive L. O. T. M. Mich. v. Supreme Hive L. O. T. M. of World*, 135/392. Insurable interest and selection of beneficiaries.—*Dolan v. Catholic Mutual Benefit Ass'n*, 152/266. When commissioner may refuse to grant certificate of authority to an insurance company to do business.—*Am. Health & Accident Ins. Co. v. Com'r of Insurance*, 154/193.

(63) § 7498. SEC. 2. The persons proposing the formation of such corporation shall associate by signing articles of association in duplicate, and acknowledging the same before some officer of this state, authorized to take the acknowledgment of deeds, who shall append thereto his certificate of such acknowledgment. *Articles of association.*

(64) § 7499. SEC. 3. Such articles shall state: *What to state.*
First, The names of the persons associating in the first instance, and their respective places of residence;

Second, The name by which such corporation shall be known in law, the place in this state where its principal office for the transaction of its business is to be located, and the period for which it is to be incorporated, not to exceed thirty years;

Third, The object of the incorporation, the number of classes or divisions of members therein and the object or purpose of such classification or division, all of which shall be definitely and correctly stated;

Fourth, In what manner and amount assessments, premiums or payments are to be required from the members, the purposes and objects to which the moneys so realized are to be appropriated, and the names and objects of each fund into which any of such money shall be paid;

Fifth, The number of its trustees and regular officers, and

the time and place of holding the annual meeting of the members;

Sixth, The ages within which members shall be accepted, and such other matters not inconsistent with this act as may be approved by the attorney general and commissioner of insurance as hereinafter provided.

Where the articles of association provide for the payment of policies only in the event of the death of the insured, the company cannot issue a policy payable upon the occurrence of total disability.—Preferred Mass. Mut. Life Ins. Co. v. Giddings, 112/401. The articles of association, by-laws and certificates of membership determine the rights of the members and the association, and may be enforced by the parties and beneficiaries according to their respective rights as therein provided.—Union Mut. Ass'n v. Montgomery, 70/594. The statute under which the association is organized, in force when the insurance contract is made, forms part of the contract and governs as to its construction.—Silvers v. Mich. Mut. Ben. Ass'n, 94/39. A mutual life insurance company may, where its articles of association are framed accordingly, write whole-life policies, term insurance, advance payment insurance and insurance upon joint lives.—Home Life Assurance Co. v. Maynard, 112/497. Provisions in the articles and by-laws of a fraternal benefit association, creating a tribunal of its members to hear and determine all claims of members against it and declaring its decisions final, are valid and form a part of the voluntary contract of membership.—Derry v. Great Hive L. O. T. M., 135/494. Finality of decision.—Barker v. Great Hive L. O. T. M., 135/499.

Examination
and filing of.

(65) § 7500. SEC. 4. Upon the execution and acknowledgment of such articles the same shall forthwith be submitted to the attorney general and commissioner of insurance for examination, and if such articles shall be found to comply with the provisions of this act said officers shall respectively endorse the same with their approval, and said articles shall thereupon be filed and recorded in the office of the secretary of state and of the clerk of the county in which the principal office of the corporation is located, and a certified copy thereof shall be filed in the office of the commissioner of insurance. Notice of the intention to organize such corporation shall be published for four successive weeks in some newspaper published in the county in which its principal office is to be located, and proof of such publication shall be presented to the attorney general at the time the articles of association are submitted to him for examination as aforesaid.

Notice of
intention to
organize.

When to be-
come a body
corporate.

(66) § 7501. SEC. 5. Upon the recording and filing of such articles as aforesaid, the signers thereof shall, with those who may thereafter become associated with them, become and be a body corporate and politic for the purpose set forth in said articles. The secretary of state and the county clerk aforesaid, shall each certify on said articles the fact of recording as aforesaid, giving the date and book and page of record. The original articles, or the record thereof, or a copy thereof, certified by the secretary of state, shall be prima facie evidence in all proceedings of the due formation, existence and capacity of such corporation; but such articles of association shall become void on the expiration of one year from the date of record thereof, unless a certificate of authority to do business has been issued as hereinafter provided.

Certificate of
secretary of
state, etc.

Articles,
when void.

When cor-
poration to
commence
business.

(67) § 7502. SEC. 6. Such corporation shall not commence business unless it shall have procured bona fide agree-

ments for insurance therein from at least two hundred eligible persons, which, in case of a life insurance company, shall be in an amount of not less than one thousand dollars each, and in case of either a life or casualty insurance company, shall have received at least one assessment thereon in cash from each of such persons, according to the rate and plan set forth in its articles of association, which amount so received in cash shall aggregate at least one thousand dollars; nor until it has fully organized by the election of the proper and suitable officers, and the secretary and treasurer shall have given good and sufficient bonds to the association to be held by the president of the association, for the faithful performance of their duties, which bonds shall not be less than two thousand dollars, and shall be at least twice the amount of money liable to come into their hands as such officers at any one time; said bonds to be approved by the commissioner of insurance. The president and secretary of such corporation shall furnish under oath to the commissioner of insurance proof of such agreements for insurance, giving the name, residence, age and amount of insurance applied for by each applicant, and the amount of assessment actually paid by each applicant, and also proof of the election and qualification of the officers, and the custodian of the funds of such corporation shall furnish to the commissioner of insurance a certificate under oath that he has received and holds in trust for the benefit of the beneficiaries of such applicants, the sum of one thousand dollars or more.

Proper officers
must be
elected.

Must give
bonds.

Proof of
agreement.

(68) § 7503. SEC. 7. Upon compliance with the provisions of this act, and upon payment of a fee of ten dollars, for the benefit of the state, to the commissioner of insurance, he shall issue to the corporation so complying a certificate of authority to do business in this state for the period of one year from the first day of April of the year of its issue, unless the same be sooner revoked.

Certificate of
authority.

The acquiescence of the trustees and officers and members of an association in the refusal of the commissioner of insurance to renew its license to do business, deprives such association of the "moral or legal capacity to resume business."—*Stamm v. N. W. Mut. Ben. Ass'n*, 65 / 317. When commissioner may refuse to grant certificate of authority.—*Am. Health & Accident Ins. Co. v. Com'r of Insurance*, 154 / 193.

(69) § 7504. SEC. 8. The property, business and affairs of such corporation, organized under the laws of this state, shall be managed by not less than five nor more than twenty trustees, to be chosen by and from the members at their annual meeting. They shall hold office for one year, and until their successors are chosen: Provided, It shall be lawful to designate the trustees, who shall be members, for the first year, in the articles of association. If, for any reason, trustees shall not be elected at the annual meeting in any year, the corporation shall not be thereby dissolved or impaired, but an election may be held at any time within one year thereafter, to be fixed, and notice thereof to be given by the secretary in the manner hereinafter specified for calling

Trustees, how
chosen, term
of office, etc.

Proviso.

May be elected
at a special
meeting.

special meetings of the members; and in case of a refusal or neglect to call such election, any twenty-five members may call the same upon the same notice as hereinafter provided for calling special meetings of the members. All of such trustees shall be citizens of the United States, and a majority shall be residents of the state of Michigan.

Shall be
citizens.

Officers and
agents.

(70) § 7505. SEC. 9. The trustees shall choose from their number such officers as the articles of association or by-laws may prescribe. They may also appoint such agents and employees as may from time to time be required.

Agent's contract for compensation.—*Lee v. Indemnity Union*, 135 / 291.

Quorum.

By-laws.

(71) § 7506. SEC. 10. A majority of the trustees duly convened according to the by-laws shall constitute a quorum for the transaction of business. The trustees shall adopt by-laws and regulations not inconsistent with the articles of association or the provisions of this act.

The adoption of by-laws by a mutual benefit association, prohibiting the assignment of certificates and giving the association 90 days after maturity in which to make payment, cannot affect members as to certificates previously issued, unless they expressly assent thereto.—*Wheeler v. Order of Iron Hall*, 110 / 437. A by-law of a mutual benefit association, providing for certain benefits in case of a bodily injury which alone shall "cause amputation of a limb (hand or foot)." does not entitle a member to such benefit, in case of the amputation of only a part of a foot, although the foot is rendered useless for the performance of its natural functions.—*Fuller v. Insurance Association*, 122 / 548. The beneficiary in a certificate of insurance issued by a mutual benefit association must, in the absence of fraud or oppression on the part of the association and its officers, exhaust the remedy prescribed by the charter and by-laws, before resorting to the courts.—*Fillmore v. Maccabees*, 109 / 13. Where the by-laws of a benefit association provide for the arbitration of death claims, that the decision of the arbitrators shall be final and that no suit shall be maintained against the company by a beneficiary, a claimant must exhaust the remedy given by the by-laws before he can sue on a death claim.—*Hoag v. Supreme Lodge*, 134 / 87. Where the by-laws of a benefit association provide that the award of arbitrators, to settle disputed claims, shall be legal if signed by all three of the arbitrators, an award signed by only two cannot be enforced against the association.—*Russell v. N. A. Ben. Ass'n*, 116 / 699.

Books, papers
etc., to be kept
at principal
office.

Trust fund to
be maintained.

May hold cer-
tain real
estate.

(72) § 7507. SEC. 11. The books, papers and documents of such corporation organized under the laws of this state shall be kept at its principal office, and every such corporation shall provide in its articles of association for the accumulation of an emergency fund, which shall not at any time be less than the maximum amount at risk on any one life, which fund, together with the income thereon, shall be a trust fund for the payment of death claims, or other benefits provided for in their policies or certificates; said fund shall be accumulated by existing corporations within six months from the time of the taking effect of this act, and by all others from the date of their incorporation. Such fund, with the increase thereof, shall be deposited, under trust deeds, to the credit of the corporate name of the corporation in some incorporated bank or banks, or may be invested by the trustees in its corporate name, in such securities as insurance companies are allowed by law to invest their funds. Such corporations organized in this state shall not have the power to take or hold real estate, except such as may be nec-

essary for the transaction of its business, or may be acquired in the foreclosure of mortgages and all real estate acquired in the foreclosure of mortgages shall be sold or disposed of within five years after the title has been perfected in any such corporations. Annual statements of the transactions and financial condition of such corporation shall be made at the annual meeting of its members, and a copy of each annual statement filed with the insurance department of this state, in so far as it relates to its financial transactions and conditions, and its certificate or policy account shall be mailed to every member within thirty days from the date of filing such statement: Provided, That any such corporation may provide in its policy for the payment at stated periods, of premiums or assessments, for the purpose of accumulating and maintaining and may accumulate and maintain a mortuary, an emergency and a reserve fund, and may provide in such policy that the members may receive the benefit of any surplus moneys not needed by such corporation. Nothing contained in this act shall be construed to permit any contract promising any fixed cash payment to any certificate or policy holder, excepting in the contingency of death or total permanent physical disability.

Annual statements to be made.

Proviso as to payment of premiums or assessments.

When cash payments to be made.

Under the proviso, an association, when its articles are framed with respect thereto, is authorized to write whole-life policies, term insurance, advance payment insurance, and insurance upon the joint lives of two or more persons.—Home Life Ins. Co. v. Maynard, 112 / 497.

(73) § 7508. SEC. 12. Every person insured in any corporation organized in this state shall be a member of such corporation, and shall be entitled at all meetings of such members to at least one vote, and may vote in person or by proxy under such rules and regulations as may be provided in the by-laws of such corporation. The books of such corporation or association shall be open for inspection by any member of said organization at any of its meetings.

Persons insured, members of corporation.

(74) § 7509. SEC. 13. Special meetings of the members may be called by the trustees at any time when deemed advisable, and notice of all meetings of the members shall be given by mailing to each member a copy of such notice, postage prepaid, and directed to his last known postoffice address at least fifteen days prior to the time fixed for such meeting, and such notice shall state the time, place, and if it be a special meeting, the purpose of such meeting.

Special meeting, when called, etc.

(75) § 7510. SEC. 14. Corporations organized in this state shall not take any name in use by any other organization of this state, or so closely resembling such name as to mislead the public as to its identity.

Name of corporation.

A foreign corporation doing business in Michigan is not an organization of this state, within the prohibition of this section.—People v. Home Life Assurance Co., 111 / 405; Great Hive v. Supreme Hive, L. O. T. M., 135 / 392. What constitutes a Michigan contract.—Dolan v. Catholic Mutual Benefit Ass'n, 152 / 266.

Policy or certificate to specify sum it promises to pay, etc.

When commissioner may proceed to investigate.

Proviso.

Limit of age in insurance policies.

(76) § 7511. SEC. 15. Every policy or certificate hereafter issued by any corporation organized in this state and doing business under this act, and promising a payment to be made upon a contingency of death or of disability by accident, shall specify the sum of money it promises to pay upon each contingency insured against, and the number of days after the satisfactory proof of the happening of such contingency at which such payment shall be made; and upon the occurrence of such contingency, unless the contract shall have been voided by fraud or by breach of its conditions, the corporation shall be obligated to the beneficiary for such payment at the time and to the amount specified in the policy or certificate; and this indebtedness shall have priority over all indebtedness thereafter incurred, except as hereinafter provided in case of the distribution of assets of an insolvent corporation. If the commissioner of insurance shall be satisfied, on investigation, that any such corporation has refused or failed to make such payment for thirty days after it became due and after proper demand, he shall proceed without delay to investigate the condition of the corporation, and shall have full power in person, by deputy, or by department examiners, commissioned by him, to examine the books, papers and accounts, and to examine, under oath, its officers, agents, clerks and certificate holders, or other persons having knowledge of its business, and if it shall appear to him that its liabilities for death claims and other debts due and unpaid exceed its resources, and that it cannot within a reasonable time, not more than three months from the date of the original default, pay such liabilities in full, he shall report the same to the attorney general, who shall, upon such report, institute proceedings as provided in section twenty-two of this act: Provided, That any corporation heretofore or that may be hereafter organized, whose membership is limited to the order of Free and Accepted Masons, their wives and widows, shall not be required to pay upon any death loss any sum beyond the amount actually realized upon the assessment made upon such death loss, if it clearly appears in the policy or certificate of membership to have been so intended at the time of insuring.

(77) § 7512. SEC. 16. Corporations organized, existing or doing business in this state under or by virtue of the provisions of this act shall not issue any policy or certificate of membership upon the life of any person over the age of sixty-five years, nor upon any person not capable in law of making contracts, nor upon any life in which the beneficiary named has not an insurable interest, nor unless the person whose life is proposed for insurance shall have made and signed an application for such certificate or policy, and shall have undergone a careful physical examination by some physician of good repute, who shall make a detailed certificate thereof to be attached to such application, showing that the applicant is in good health, and recommending the issue of the certifi-

cate or policy applied for. Any member of any such corporation or association shall have the right at any time, with the consent of such corporation, or association, and with the consent of the beneficiary, if he be a creditor, to make a change in his beneficiary within the limits above specified. Such corporation shall not issue policies or certificates to beneficiaries as creditor or creditors that do not state they are for collateral security payable as the interests of such beneficiaries may appear, and in every such case said creditor or creditors shall only be entitled to such portion of the amount insured (not exceeding the face of the policy or certificate), as shall cover the indebtedness of the member to said creditor at the date of his death, and proof of said indebtedness shall be made under oath, and the member may designate in such certificate some beneficiary within the above limits to whom such certificates shall be payable after the claims of such creditors have been satisfied. Any certificate or policy issued in violation of the above provisions shall be void as to the beneficiary therein named, but the amount thereof shall in case of death be payable to the heirs of the member: Provided, That nothing in this section contained shall prohibit the reinstatement of a risk on any life where the policy may have lapsed through inadvertence or otherwise; nor shall this section apply to accident insurance policies.

Members shall have the right to make change in beneficiary.

Certificate, etc., issued in violation of provisions, etc. Proviso.

The question whether or not a member of a mutual benefit society was over the eligible age at the time he joined is for the jury upon the evidence.—*Reis v. Arbeiter Unterstuetzungs Verein*, 111/127. A person who has an insurable interest, being made a beneficiary upon a written agreement to pay the fund over to another, who has no insurable interest and cannot directly be made a beneficiary in a certificate of a mutual benefit association, will be compelled in equity to carry out the trust, the association being the only party entitled to contest the legality of the transaction.—*Cowin v. Hurst*, 124/545. At the common law a sister had an insurable interest in her brother's life.—*Hosmer v. Welch*, 107/475. A contract of insurance upon a life, in which the beneficiary has not an insurable interest, is a wager upon the life of the assured and void as against public policy.—*Smith v. Pinch*, 80/332. The provision, prohibiting the issue of policies or certificates upon any life in which the beneficiary has not an insurable interest, and the latter provision that, in case of a violation of said prohibition, the insurance shall be payable to the heirs of the deceased member, construed together, embrace heirs who have not an insurable interest.—*Silvers v. Mich. Mut. Ben. Ass'n*, 94/39. The term "family" is elastic and will be liberally construed. It is not confined to a husband and wife and their children.—*Hosmer v. Welch*, 107/475. It will cover the case where an old man and a young woman, not related, lived together for years in the same household and treated each other as father and daughter.—*Carmichael v. N. W. Mut. Ben. Ass'n*, 51/494. But where the benefit is payable only to a member of the family of the insured it cannot be paid to one who is merely an army comrade and intimate friend.—*Knights of Honor v. Walrn*, 60/44. Nor can the mistress of the insured, who lived with him in an "unlawful, illicit and licentious way," be a beneficiary as a member of his family.—*Hosmer v. Welch*, 107/475. A husband, separated from his wife by mutual consent, may contract family relations with a sister.—*Hosmer v. Welch*, 107/470. The same rules of construction should be applied to dispositions of property created by these mutual benefit associations as are applied to bequests by will.—*Union Mutual Ass'n v. Montgomery*, 70/595; *Silvers v. Mich. Mut. Ben. Ass'n*, 94/46. No person who is not of the class for whose benefit the association was authorized can be a beneficiary.—*Wolf v. Grand Lodge, I. O. B. B.*, 102/23; *Mich. Mut. Ben. Ass'n v. Rolfe*, 76/151; *Mut. Ben. Ass'n v. Hoyt*, 46/473. Where a member designates no beneficiary and dies intestate, his heirs will take the death benefit.—*Wolf v. Grand Lodge, I. O. B. B.*, 102/23. Where the policy is made payable to the "heirs at law," the widow is entitled to share in the proceeds.—*Lyons v. Yerex*, 100/214. Where a member has the absolute right to name his beneficiary, it is the duty of the officer issuing the certificates to insert the name of the beneficiary named in the application for membership.—*Eckler v. Terry*, 95/123. Insurable interest, see *Dolan v. Catholic Mutual Benefit Ass'n*, 152/266.

Certificate of authority from commissioner of insurance necessary.

Obligations imposed by other states, how treated.

What foreign corporations to furnish commissioner.

Foreign corporations to appoint attorney in this state.

(78) § 7513. SEC. 17. No corporation or association organized or doing business under or by virtue of the laws of any other state or territory of the United States or District of Columbia, or foreign country, for the purpose of insuring lives or furnishing accident indemnity upon the co-operative assessment plan, shall be authorized to do business in this state until it shall have obtained a certificate of authority from the commissioner of insurance of this state as herein-after provided; nor unless the state or territory of the United States or District of Columbia, or foreign country, under whose laws such corporation or association is organized, shall extend the right to such corporations in this state to do business in such state or territory of the United States or District of Columbia, or foreign country, upon similar conditions to those in this act prescribed. When any other state or territory of the United States or District of Columbia, or foreign country shall impose any obligation upon any such corporation of this state, the like obligation shall be imposed on similar corporations and their agents of such state or territory of the United States or District of Columbia, or foreign country, doing business in this state. Such foreign corporation or association shall furnish to the commissioner of insurance of this state certified copies of its articles of association or charter, and its by-laws, together with a sworn statement of its business of the preceding year, giving in detail the same information as is required by the annual statement of corporations organized hereunder, together with a copy of its application and certificate or policy, and a certificate, under oath, of its president and secretary that it does not issue policies or certificates upon the lives of persons over sixty-five years of age, nor upon any person unless such person shall have personally made and signed an application for such certificate or policy, and that it has in force policies of insurance on which the proceeds of one assessment will pay the highest amount insured upon each of the lives of members for which the assessment is levied, the full amount agreed to be paid upon the death of any one member, and that it is paying, and for the twelve months next preceding has paid, the highest amount named in its policies or certificates in full. Such foreign corporation or association shall also appoint some citizen and resident of this state its attorney upon whom all process against said corporation or association may be served, and shall also agree that such service may be made upon the commissioner of insurance of this state, who shall be deemed its agent for that purpose, and such agent or commissioner shall immediately mail to the secretary of such corporation or association a certified copy of the process thus served. All papers above referred to shall be preserved in the office of the commissioner of insurance. Such foreign corporation or association shall also furnish to the commissioner of insurance of this state a certificate from the insurance department, if any, of its home state or territory of the United

States or District of Columbia, or foreign country, that it is authorized to do business in such home state or territory of the United States or District of Columbia, or foreign country, and shall also, if the commissioner of insurance of this state requires it, submit to a full examination of its business and affairs by the commissioner of insurance, or by some person designated by him, and at its own expense.

Secret or fraternal societies, lodges or councils, which are under the supervision of a grand or supreme body and secure members through the lodge system exclusively, and associations organized solely for benevolent purposes, do not fall within the provisions of this section.—*Rensenhouse v. Seeley*, 72/616. Foreign insurance companies can transact business in this state, only upon such terms as may be imposed by the legislature.—*Hartford Fire Ins. Co. v. Raymond*, 70/501. See section 86 of this compilation.

(79) § 7514. SEC. 18. Upon compliance with the provisions of the preceding section, and the payment to the commissioner of insurance for the use of the state, of a fee of twenty-five dollars, he shall issue to the corporation or association so complying a certificate of authority to do business within this state for the period of one year from the first day of April of the year of its issue unless the same be sooner revoked: Certificate of authority to foreign corporations. Provided, That such certificate of authority to do business in this state shall not be issued unless such corporation is doing business in conformity with the provisions of this act. Proviso.

(80) § 7515. SEC. 19. No person shall within the state act as agent, solicitor, officer, trustee or otherwise in receiving or procuring applications for insurance in any assessment or co-operative corporation or association (except for the purpose of taking such applications preliminary to organization), or transact or carry on any business of such corporation or association, unless such corporation or association for which he is so acting shall then be authorized, as provided in this act, to do business within this state, and no person shall collect, receive or remit any money on assessments or otherwise for any company not authorized to do business in this state. Persons acting as agents for unauthorized corporations, etc. And any person who shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor, Misdemeanor. and upon conviction thereof, shall for each offense be punished by a fine not exceeding five hundred dollars and the costs of prosecution, or by imprisonment in the county jail not to exceed three months, or by both such fine and imprisonment, in the discretion of the court; and the prosecuting attorney of the proper county shall prosecute persons charged with violation of this section. Penalty. If the commissioner of insurance shall receive evidence to satisfy him of the violation of any of the provisions of this act it is hereby made his duty to investigate the same, by himself or his deputy, and if, in his opinion, sufficient evidence is found to convict of such violation, to notify the attorney general thereof, Duty of commissioner of insurance. and he shall cause a complaint to be entered against the person or persons offending, and the necessary traveling expenses Duty of attorney general.

	under this section shall be audited by the board of auditors and paid from the general fund.
Business year of corporation.	(81) § 7516. SEC. 20. The business year of every corporation or association organized, existing or doing business in this state under and by virtue of the provisions of this act shall close on the thirty-first day of December in each year, and every such corporation or association shall, within sixty
Detailed statement, preparation and filing.	days thereafter, prepare under oath of its president and secretary and file in the office of the commissioner of insurance of this state a detailed statement showing its assets and how invested, liabilities, receipts from assessments and all other sources, an itemized account of all expenditures, salaries of officers, number of policies or certificates in force, amount insured thereby, death losses and benefits paid, and amount paid on each death loss or benefit, death or accident losses reported but not paid, death or accident losses contested, and
Annual statement, fee required.	why, and shall answer such other questions as the commissioner (who shall furnish blanks for the purpose), may require in order to ascertain its true financial condition, and shall pay to the state upon filing each annual statement a fee of five dollars for each Michigan corporation, and twenty-five
Publication of annual statement.	dollars for each foreign corporation. The commissioner shall publish such annual statements in detail in his annual report, and for the purpose of verifying any such statement, or of ascertaining the true condition of the corporation or association making it, the commissioner may at any time make
Examination, etc.	or cause to be made an examination of the affairs of any such corporation or association doing business under this act at the expense of such corporation or association, which expense shall not exceed the necessary hotel and traveling expenses of the commissioner and one clerk: Provided, That if the
Proviso.	commissioner find it necessary to appoint some person not employed in his office to make such examination the corporation or association examined shall pay, in addition to the expenses above referred to, the reasonable charges of the person so appointed, not exceeding five dollars a day for the time actually employed. Any foreign corporation or association shall also furnish to the commissioner certified copies of all changes, if any, in its organization, or plan of doing business, and satisfactory evidence that it is still authorized to do business in its home state or territory of the United States, or District of Columbia, or foreign country.
Certificate of authority to do business, etc.	(82) § 7517. SEC. 21. Upon the filing of such annual statement, if the commissioner shall find that the corporation or association making the same is still organized and doing business in conformity to the provisions of this act, he shall issue his certificate authorizing such corporation or association to do business in this state for a period of one year from the first day of April of the year of its issue, unless sooner revoked.

Under this section the commissioner may withhold his certificate on finding that the association is allowing rebates in violation of law, although the

next section provides for the institution of proceedings by the attorney general in such case.—Life Ins. Co. v. Insurance Com'r, 128/85. See Am. Health & Accident Ins. Co. v. Com'r of Insurance, 154/193.

(83) § 7518. SEC. 22. Whenever any corporation organized, existing, or doing business under or by virtue of the provisions of this act shall fail to make the annual statement required by this act, or whenever the commissioner of insurance shall, after a full examination of its affairs, find sufficient evidence that such corporation or association is conducting its business fraudulently, or not in compliance with the provisions of this act, or is not carrying out its contracts with its members in good faith, he shall immediately report to the attorney general such evidence and copies of any papers, statements, or reports in his office relating to the matter. Upon receiving such evidence, papers and reports, the attorney general, if he is satisfied from the evidence, papers, statements, or reports that such corporation is conducting its business fraudulently, or not in compliance with the provisions of this act, or is not carrying out its contracts with its members in good faith, shall, if it be organized under the laws of any other state or territory of the United States, or District of Columbia, or foreign country, immediately notify the corporation or association to cease to do business in this state under pain of the penalties prescribed by law, and he shall also instruct the prosecuting attorney of the proper counties to prosecute for all violations of this act. But if such corporation or association be organized and created by the laws of this state, the attorney general shall at once institute proceedings, in such form as he shall deem advisable, in the name of the people of the state of Michigan, in the circuit court in chancery of the county in which the principal office of such corporation or association is located, of which proceedings such corporation or association shall have such notice as the court shall direct, and may bring before such court all the officers of such corporation or association, and such court shall cause a full hearing to be had of all the facts and circumstances relating to the business and condition of such corporation or association, and such court may, if it shall appear for the best interests of the members, after a full hearing as aforesaid, remove any or all of the officers of such corporation or association, and appoint others in their place until the next annual election, or may decree that such corporation or association be deemed to have forfeited its corporate existence and direct its affairs to be wound up, and for that purpose may appoint a receiver thereof, and regulate and control the acts and proceedings of such receiver. Such receiver may, under the direction of the court, transfer the members of such corporation or association, who consent thereto, to some other similar solvent Michigan corporation or association, with its consent, to be selected by the insured or by the court, or said receiver may, by order of the court, continue the business for the purpose of paying all

Duty of commissioner in case of failure to make annual statement, etc.

Duty of attorney general, if a foreign corporation.

In case of a state corporation.

Duty of court.

May appoint receiver.

Duty of receiver.

death claims and accident benefits which have accrued at the time of his appointment, which claims shall be deemed preferred claims, and he may by such order be directed to make assessments upon all members liable therefor, but only to the extent to which they are liable according to the rates and plans and under the contract by which they are severally insured, for the purpose of paying such death losses and accident benefits and the expenses of making such assessments and of such receivership, or he may be ordered to divide and distribute any accumulated funds among the members entitled thereto.

Under the provision for the continuance of the business of the association by the receiver, he may be required to levy an assessment for the purpose of paying a death claim accruing after the filing of such petition, but before his appointment.—*Taft v. Judge*, 129 / 312. The discretionary action of a circuit judge in removing a receiver will not be reversed where it clearly appears that he did not accomplish what he ought to and would have accomplished had he exercised the diligence of a prudent man in winding up a business of his own.—*In re Angell*, 131 / 345. A receiver will be charged with assessments lost through his want of diligence in learning of the death of the debtors and presenting the claims against their estates.—*Id.*

Agent, physician, etc., guilty of misdemeanor.

(84) § 7519. SEC. 23. Any agent, physician, or other person, who shall, by means of concealment or false or fraudulent statements or representations secure, or assist in securing, from any such corporation or association a policy or certificate of membership on the life of any person, shall be deemed to be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed five hundred dollars, or by imprisonment in the county jail not to exceed one year, or by both such fine and imprisonment, in the discretion of the court.

When corporation may amend its articles of association.

(85) § 7520. SEC. 24. Any corporation or association whose purpose it is to insure the lives of its members, or to furnish its members indemnity against accident, upon the assessment plan, that may now be organized and doing business under any of the laws of this state, or that may hereafter be organized under the provisions of this act, may amend its articles of association at any regular or special meeting of the members duly called, such amendments having been concurred in by a majority of the members present and voting upon such amendment; but such amended articles shall not take effect until they have been examined, approved, and recorded and filed in the manner provided in section four of this act.

How act to be construed relative to secret or fraternal societies.

(86) § 7521. SEC. 25. This act shall not be construed to apply to secret or fraternal societies, lodges or councils now doing business, or that may be hereafter organized in this state, which are, or shall be under the supervision of a grand or supreme body, and secure members through the lodge system exclusively, nor to any association organized solely for benevolent purposes, composed wholly of the members of one occupation, profession or religious denomination, or fraternal society, their wives or widows, now organized

and doing business in this state: Provided, That any society or organization named in this section may, by complying with the provisions of this act, be entitled to all the privileges and be amenable to all the obligations of this act. Proviso.

Section 26 repeals Act 104 of 1869, Act 192 of 1883, Act 181 of 1883, "and all acts and parts of acts supplemental to or amendatory of any of the above acts, and all acts and parts of acts inconsistent with the provisions of this act are hereby repealed, except in so far as they apply to societies and organizations mentioned in section 25 of this act. But the repeal of the foregoing acts shall not dissolve any corporation or association now organized and existing under said several acts above mentioned, or either of them, provided that such corporation or association shall be found by the attorney general and commissioner of insurance, after such examination as is provided for in sections 4 and 17 of this act, to be organized and doing business in substantial conformity to the provisions of this act, or shall be made to so conform by immediate amendment of its articles of association, and such corporations or associations having been found or so made to conform as aforesaid, shall continue of the same effect and force as though the said act or acts had not been repealed, and shall, from and after the taking effect of this act, be deemed to be corporations organized under the provisions of this act, and shall be subject to all the provisions hereof as fully as though such corporations or associations had been originally created hereunder, and may continue and carry on the business specified in their articles of association under the provisions of this act as if the acts mentioned in this section had not been repealed."

Whether a company organized previous to this act has complied with all of its provisions is only for the state to inquire.—*Meurer v. Detroit, M. B. & P. Ass'n*, 95/455. As to what kind of an association comes within the terms of this section, see *Renssenhouse v. Seeley*, 72/603.

(87) § 7522. SEC. 27. The provisions and benefits of act number twenty-nine, public acts of eighteen hundred and seventy-seven, entitled "An act to facilitate the organization of mutual benefit and co-operative associations within this state," approved March twelfth, eighteen hundred and seventy-seven, the same being compiler's section 4246 of Howell's annotated statutes of this state, shall apply and extend to all corporations or associations organized, existing, continued or doing business under this act.

Provisions and benefits of certain acts extended to corporations.

The act referred to is C. L. '97, 7221, and provides: That sections 10 and 29 of an act entitled "An act to amend sections 10 and 12 of an act entitled 'An act in relation to life insurance companies transacting business within this state,' approved March 30, 1869, and to add three new sections thereto, to stand as sections 27, 28 and 29, being act number 80 of the session laws of 1871, being compiler's sections 2962, 2963 and 2964 of the compiled laws of 1871, as amended by act number 55 of the extra session of 1872, shall not be construed so as to include, apply to, or in anywise affect mutual benefit, co-operative (and other benevolent) associations, organized or to be organized within this state, under and by virtue of the provisions of an act entitled "An act to provide for the incorporation of co-operative and mutual benefit associations," approved April 3, 1869. The provisions of this section and the act referred to do not prevent such an association from being considered as a life insurance company, within a general statute relating to such companies.—*Cit. Life Ins. Co. v. Ins. Com'rs*, 128/85.

(88) § 7523. SEC. 28. Every notice of an assessment or call made by any corporation or association organized, existing or doing business hereunder shall specify the amount to be paid, the loss or benefit for the payment of which the call or assessment is made, except where premiums are made payable in the policy at stated intervals, and the time and place for the payment of the same, together with a correct statement of the mortuary or beneficiary fund, and of the emergency fund, showing the receipts, disbursements and balances at the close of the calendar month. No funds or moneys

What notice of assessment shall specify.

received or collected by any corporation or association organized, existing or doing business hereunder, for the purpose of paying or providing for the payment of death losses or accident indemnities shall be used or paid out for any purpose other than those contemplated in section eleven of this act.

The assessment must have been made by the proper authority and notice thereof must have been given by the proper officer, or there can be no forfeiture for non-payment.—*Bates v. Detroit Mut. Ben. Ass'n*, 51/587. Nor can the policy be forfeited unless the notice is in the form required by the by-laws.—*Miner v. Mich. Mut. Ben. Ass'n*, 63/338; *Dowling v. Life Indemnity Co.*, 116/471. Or the statutes.—*Warner v. Nat'l Life Ass'n*, 100/157. Time within which assessments must be paid, to prevent a forfeiture of benefits, does not begin to run, in case of notification by mail, until the notice is received, or ought to have been received in the ordinary course of the mails.—*Shelden v. National Masonic Benefit Ass'n*, 122/403. In case of question as to the time within which assessments must be paid to prevent a forfeiture, the articles of association will govern, instead of by-laws adopted by the board of directors.—*Shelden v. National Masonic Accident Association*, 122/403. Life insurance policy not forfeited for non-payment of an assessment, when the understanding at the issuing of the policy was that a collector would be sent for the assessments monthly, to the home of the insured, and no notification was afterward given that payments were to be made elsewhere.—*Baker v. Mich. Mut. Protective Ass'n*, 118/431. The collection of an assessment from a member of a mutual benefit society does not constitute a waiver of a provision avoiding the certificate in case of untrue statements in the application, where the officers were not aware of any false statements when they accepted payments.—*Finch v. Modern Woodmen of America*, 113/646. The acceptance of a past due assessment by a benefit society and its retention until after the commencement of suit constitutes a waiver of the right to assert a forfeiture of the certificate.—*Lord v. National Protective Society*, 134/357. Waiver of forfeiture for non-payment of assessment.—*Jones v. Preferred Bankers' Life Assurance Co.*, 120/211.

Proceeds of
certificate or
policy, to
whom paid.

(89) § 7524. SEC. 29. The proceeds of any certificate or policy issued by any such corporation or association, except such as are expressly made payable to a creditor or the legal representatives of a member, shall be payable in case of death or accident to the beneficiary named therein free from all claims of the representatives of such member, or of any of his creditors.

A person insured in a benefit society may, unless prohibited by the terms of the certificate or the rules of the society, charge the beneficiary by will with the payment of a debt out of the proceeds of the insurance.—*Woodruff v. Tilman*, 112/188. The right, which was before inchoate and contingent, becomes, upon death, fixed and certain in the beneficiary. He may compel the corporation to levy the assessment if it refuses, after the time limited for payment.—*Union Mut. Ass'n v. Montgomery*, 70/595. Where the insurance is payable to certain parties, if living, but, if not living, then to others, the terms, "if living" and "if not living" refer to living at the time of the death of the insured.—*Id.* Proof of death.—*Tessman v. United Friends*, 103/185. The holder of a certificate of membership, which provides that suit must be brought within nine months after death, cannot sue after the expiration of that time.—*Shackett v. Mut. Ben. Soc'y*, 107/65. A provision in the laws of a mutual benefit association that the decision of a tribunal, created by the constitution to pass upon death claims, shall be final and bar any suit at law or in equity therefor, sustained as within the rulings in *Van Poucke v. Society*, 63/378; *Canfield v. Knights of Maccabees*, 87/626; *Hembeau v. Knights of Maccabees*, 101/161; *Fillmore v. Maccabees*, 103/437; *Derry v. Great Hive, L. O. T. M.*, 135/494; *Barker v. Great Hive, L. O. T. M.*, 135/499. A mutual benefit association cannot take advantage of a delay in furnishing proofs of loss, occasioned by the neglect of duty by its own secretary, in supplying blanks for such proofs, after a request for the same by the beneficiary.—*Shelden v. National Masonic Accident Ass'n*, 122/403. When the right to require the submission of proofs of death in the form prescribed by the regulations of a mutual benefit association has been once expressly waived it cannot be afterward insisted upon.—*Fillmore v. Maccabees*, 109/13.

(90) § 7525. SEC. 30. No policy or certificate issued by any corporation or association doing business under the provisions of this act shall be canceled for the non-payment of any assessment, periodical call or dues, without first having mailed to the holder of such policy or certificate, at his or her last known postoffice address, a notice stating the amount of such assessment, periodical call or dues, and the limit of time in which the same must be paid. An affidavit made by the person having charge of the mailing of such notices, that any such notice was mailed, stating the date of mailing, shall be prima facie evidence thereof.

Notice to holder before cancellation of certificate.

Affidavit of person mailing notice to be prima facie evidence.

Forfeitures of policies of insurance are not to be favored.—*Milner v. Mich. Mut. Ben. Ass'n*, 63 / 343. Mandamus will lie to restore a member of a mutual benefit association to membership, of which he has been unlawfully deprived.—*Meurer v. Detroit M. B. & P. Ass'n*, 95 / 451. Certificate of mutual benefit society held void for untrue statement in application.—*Finch v. Modern Woodmen of America*, 113 / 646.

(91) § 7526. SEC. 31. All corporations or associations authorized by this act to engage in the business of providing indemnity to members for disability or death by accident may include also in such business indemnity to members for disability caused by sickness, and all provisions of this act relating to accident insurance shall apply to the sick benefit insurance herein provided for.

Sick benefit may be included.

(92) § 7527. SEC. 32. Any corporation, association, organization or society now authorized, or which may be hereafter organized, under the provisions of any law of this state for the purpose of paying to its members benefits in case of death, accident or sickness, which benefits are derived and paid from assessments upon such members, may at any time avail itself of the provisions of, and reincorporate under this act by a resolution adopted at any regular or annual meeting of such corporation, association, organization or society, or at a meeting called specially for that purpose by a vote of a majority of its members, authorizing and directing its board of directors to prepare, execute and acknowledge articles of association in accordance with this act, which shall forthwith upon execution and acknowledgment as aforesaid be submitted to the attorney general and commissioner of insurance for examination, and if such articles shall be found to comply with the provisions of this act, said officers shall respectively endorse the same with their approval and said articles shall thereupon be filed and recorded in the office of the commissioner of insurance and of the clerk of the county in which the principal office of the corporation, association, organization or society is located.

What corporations may reincorporate under this act.

Majority of members may order reincorporation.

Articles to be submitted.

Where filed.

(93) § 7528. SEC. 33. Upon the filing of such articles as aforesaid, such corporation, association, organization, or society so reincorporated shall become and be a body corporate and politic for the purposes set forth in said articles and shall be subject to and governed by the provisions of this act.

Shall be a body politic and corporate.

Societies may
maintain
rooms for
social pur-
poses.

Proviso as to
certain funds.

(94) § 7529. SEC. 32. Nothing contained herein shall be construed as prohibiting any society organized for social or fraternal purposes, and which makes provision also for insuring the lives of its members, under the provisions hereof, from the maintenance of rooms for social purposes: Provided, That no part of either the mortuary, emergency, or reserve funds, herein provided for, shall be devoted to or used for such purposes.

This section was misnumbered when added in 1897. Sections 34-40 following were added by Act 246 of 1903.

To maintain
reserve fund.

Amount,
where de-
posited.
Proviso.

Further
proviso.

(95) SEC. 34. Every corporation, association or society organized under this act shall maintain a reserve or emergency fund, which said fund shall be deposited with the state treasurer, and shall be the sum of two thousand dollars, except as hereinafter provided: Provided, That whenever the amount of the assessments or premiums paid into the home office of any such corporation, association or society shall exceed the sum of twenty-five thousand dollars and shall not exceed fifty thousand dollars, in any one year, such reserve or emergency fund shall be maintained and deposited with the state treasurer as aforesaid, in the sum of three thousand dollars: And provided further, That in case the amount of assessments or premiums paid into the home office of any such corporation, association or society shall exceed the sum of fifty thousand dollars in any one year, such reserve or emergency fund shall be maintained and deposited with the state treasurer as aforesaid, in the sum of five thousand dollars.

Added 1903, Act 246; Am. 1905, Act 34.

To be in cash
or certain
securities.

(96) SEC. 35. Such funds shall be in cash or in the same class of securities required by law for the investment of funds by insurance corporations; and nothing herein contained shall prevent the creation and accumulation of other funds in excess of the amounts herein required to provide for the purpose of such corporation.

Added Id.

When may
transfer or re-
insure risks.

(97) SEC. 36. No such corporation, association or society, organized under the laws of this state, shall transfer its risks or reinsure them in any other corporation unless the contract of transfer or reinsurance is first submitted to and approved by a two-thirds vote of a meeting of the policy or certificate holders of such corporation called to consider the same, of which meeting a written or printed notice shall be mailed to each policy or certificate holder at least thirty days before the date fixed for such meeting.

Added Id.

(98) SEC. 37. Such vote or approval of a contract or reinsurance or transfer of its risks, shall act as a dissolution of the corporation, association or society; and all liability upon its certificates shall cease upon the expiration of five days following such vote, but its officers may thereafter perform any act necessary to close its affairs; and upon such dissolution as aforesaid the state treasurer shall upon the written order of the commissioner of insurance at once return and pay over to the proper officers of such corporation, association or society the reserve or emergency fund deposited with him as hereinbefore provided.

Corporation,
how dissolved.
When liability
to cease.

Reserve fund,
when paid
over.

Added Id.; Am. 1905, Act 34.

(99) SEC. 38. No such corporation, association or society, organized under the laws of this state, shall transfer its risks or assets, or any part thereof, to, or reinsure its risks or any part thereof in, any insurance corporation or association of any other state or country which is not at the time of such transfer or reinsurance authorized to do business in this state, under the laws thereof.

Not to trans-
fer to certain
companies.

Added Id.

(100) SEC. 39. In event any such corporation, association or society be adjudged insolvent the state treasurer shall upon the written order of the commissioner of insurance pay over to the receiver thereof the amount remaining in the reserve or emergency fund deposited with him as aforesaid, and the receiver shall apply said fund, or so much thereof as is necessary, to the payment of all outstanding claims or other legal indebtedness against such corporation, association or society, and if thereafter there remain a balance the same shall be paid to the proper officers of said corporation, association or society.

Insolvent
companies,
when reserve
paid to re-
ceiver.

How fund
used.

Added Id.; Am. 1905, Act 34.

(101) SEC. 40. Nothing in this act shall be construed to affect the grand or subordinate lodges of the Independent Order of Odd Fellows, Free and Accepted Masons, Ancient Order of United Workmen, Knights of Pythias, Modern Woodmen of America, Knights of Maccabees or other similarly conducted secret societies, maintaining grand or subordinate lodges, with ritualistic form of work and representative form of government, which may be now or hereafter formed for the sole benefit of members and their beneficiaries, and not for the profit from the business of insurance.

Act not to
affect certain
societies.

Added Id.

An Act to provide for the incorporation and regulation of cooperative and mutual protective associations of railway conductors and engineers.

[Act 125, P. A. 1909.]

The People of the State of Michigan enact:

Cooperative
associations,
incorporation
of.

(102) SECTION 1. Any number of railway conductors and locomotive engineers, not less than seven, who shall be residents of this state, desiring to become a body corporate for the purpose of carrying on upon the assessment or co-operative plan the business of providing indemnity to members, not exceeding five hundred dollars, for loss of position arising from discharge or retirement, may, by complying with the provisions hereof, become, with those railway conductors and locomotive engineers that may hereafter be associated with them, or their successors, a body corporate and politic.

Articles of
association.

(103) SEC. 2. The persons proposing the formation of such corporation shall associate by signing articles of association in duplicate and acknowledging the same before some officer of this state authorized to take acknowledgment of deeds, who shall append thereto his certificate of such acknowledgment.

Articles of
incorporation,
what to state.

(104) SEC. 3. Such articles shall state:

First, The names of the persons associating in the first instance and their respective places of residence;

Second, The name by which such corporation shall be known in law, the place in this state where its principal office for the transaction of business is to be located, and the period for which it is to be incorporated, not to exceed thirty years: Provided, That the name of such corporation shall not be similar to that of any other corporation organized under the laws of this state and shall contain the words "mutual" or "co-operative" used in such a manner as to indicate that the company is carried on upon a mutual or assessment plan;

Third, The object of the incorporation, the number of classes or divisions of members therein and the object or purpose of such classification or division; all of which shall be definitely and correctly stated;

Fourth, In what manner and amount assessments, premiums, or payments are to be required from the members, the purposes and objects to which the moneys so realized are to be appropriated, and the names and objects of each fund into which any such money shall be paid, together with the amount or proportion of the assessments which is to be placed in the respective funds, and shall provide that not more than per centum of any assessment shall be used for the purpose of paying expenses;

Fifth, The number of its trustees and regular officers and the time and place of holding the annual meeting of the members;

Sixth, Any other matters not inconsistent with this act as may be approved by the attorney general and the commissioner of insurance as hereinafter provided.

(105) SEC. 4. Upon the execution and acknowledgment of such articles the same shall forthwith be submitted to the attorney general and commissioner of insurance for examination and if such articles shall be found to comply with the provisions of this act, said officers shall respectively endorse the same with their approval and said articles shall thereupon be filed and recorded in the office of the secretary of state and in the office of the clerk of the county in which the principal office of the corporation is located and a certified copy thereof shall be filed in the office of the commissioner of insurance.

Articles, to whom submitted, where filed.

(106) SEC. 5. Upon the recording and filing of such articles as aforesaid, the signers thereof shall, with those who may thereafter become associated with them, become and be a body corporate and politic for the purposes set forth in said articles. The secretary of state and the county clerk aforesaid shall each certify on said articles the fact of recording as aforesaid, giving the date and book and page of record. The original articles or the record thereof or a copy thereof certified by the secretary of state or the commissioner of insurance shall be prima facie evidence in all proceedings, of the due formation, existence and capacity of such corporation; but such articles of association shall become void on the expiration of one year from the date of record thereof unless a certificate of authority to do business has been issued as hereinafter provided.

Body corporate.

Recording certified.

Evidence of incorporation.

Articles, when void.

(107) SEC. 6. Such corporation shall not commence business unless it shall have procured bona fide agreements for indemnity therein from at least two hundred eligible persons, which shall be an amount of not less than five hundred dollars each, and shall have received at least one assessment thereon in cash from each of said persons according to the rate and plan set forth in its articles of association, which amount so received in cash shall aggregate at least two hundred dollars; nor until it is fully organized by the election of proper and suitable officers and the secretary and treasurer shall have given good and sufficient bonds to the association, to be held by the president of the association, for the faithful performance of their duties, which bonds shall be not less than two thousand dollars and shall be at least twice the amount of money liable to come into their hands as such officers at any one time, said bonds to be approved by the commissioner of insurance. The president and secretary of such corporation shall furnish under oath to the commissioner of insurance proof of such agreements for indemnity, giving the name, residence, age and amount of indemnity applied for by each applicant and the amount of assessment actually paid by each applicant, and also proof of the election and qualification of the officers, and the custodian

When may commence business.

Oath, etc.

of the funds of such corporation shall furnish to the commissioner of insurance a certificate under oath that he has received and holds in trust for the benefit of such applicants the sum of two hundred dollars or more.

Certificate of
authority,
issuance of.

(108) SEC. 7. Upon compliance with the provisions of this act and upon the payment of a fee of ten dollars for the benefit of the state to the commissioner of insurance, he shall issue to the corporation so complying a certificate of authority to do business in this state for the period of one year from the first day of April of the year of its issue unless the same be sooner revoked.

Act to
govern.

(109) SEC. 8. Except as herein specifically provided and in all respects not inconsistent with the provisions of this act, associations organized hereunder shall be governed by and subject to all the provisions of act number one hundred eight-seven of the public acts of eighteen hundred eighty-seven, entitled "An act to revise the laws providing for the incorporation of co-operative and mutual benefit associations, and to define the powers and duties and regulate the transaction of the business of all such corporations and associations doing business within this state," as amended and now in force.

An Act to provide for the incorporation of mutual benefit societies, membership in which is confined to members of a particular religious denomination.

[Act 318, P. A. 1907.]

The People of the State of Michigan enact:

Society may
become a body
corporate.

(110) SECTION 1. Any society heretofore or hereafter organized, the membership of which is confined to members of a particular religious denomination, and having for its object the payment of a sum or sums of money to designated beneficiaries on the death of a member or wife of a member, or the payment of sick, or funeral benefits, or all, or any one of such objects, may become a body corporate in the following manner: At any regular meeting of such society, due notice having been given at the preceding meeting, a vote shall be taken on the question, "Shall this society become a body corporate," and when said question shall have been adopted by a vote of two-thirds of the members present and voting thereon, said society shall file in the office of the secretary of state and also in the office of the county clerk of the county in which the headquarters of the society is situated, a copy of the constitution and by-laws of said society, and also a copy of the above vote, certified to by the president and secretary

Time and
manner of
incorporation.

of said society; and said society shall thereupon become a body corporate, and may sue and be sued.

(111) SEC. 2. No corporation organized under the provisions of section one of this act shall pay a death or funeral benefit in excess of twelve hundred dollars upon the death of any member or his wife, nor shall such corporation pay a sick benefit to any member in excess of six dollars per week, and they may insure their children from the age of five years to seventeen years inclusive, for a sum not to exceed one hundred dollars.

Limit of sick or funeral benefit.

Am. 1909, Act 109.

(112) SEC. 3. No corporation organized under the provisions of this act, shall issue stock, borrow money, hold invested funds or acquire or hold any real estate except such as may be necessary for the transaction of its business.

Not to issue stock, borrow money, etc.

(113) SEC. 4. Funds of such corporation shall be derived from assessments upon members and membership dues, and shall be collected and applied only as prescribed in its constitution and by-laws.

Funds.

(114) SEC. 5. The constitution and by-laws of such corporation may be amended by a vote of two-thirds of the members present voting thereon at any regular meeting: Provided, That notice of the intention to propose such amendment to the constitution or by-laws shall be given at the regular meeting next preceding the meeting at which such amendment is adopted: And provided further, That such amendment shall not be effective until a copy thereof, certified by the president and secretary of said corporation, shall be filed in the office of the secretary of state and in the office of the county clerk of the county in which the headquarters of such corporation is located.

Amendment of by-laws.

Proviso, notice.

Proviso, filing of amendments.

(115) SEC. 6. Every such corporation shall, annually, after each new election of officers, report to the insurance commissioner the location of its office, the names of its president, secretary and treasurer, and such other information as said commissioner may require.

Annual report.

(116) SEC. 7. Membership in a society incorporated under the provisions of this act, shall be limited to residents of the state of Michigan: Provided, That any member of such society shall not forfeit his membership by reason of removal from the state after becoming such member.

Membership limited.

Proviso.

An Act to provide for the incorporation of burial benefit associations, and for the regulation of their business, and to repeal all acts inconsistent herewith.

[Act 298, P. A. 1907.]

The People of the State of Michigan enact:

Number may incorporate.	(117) SECTION 1. Any five or more persons of this state, who by articles of agreement in writing, have associated or shall associate themselves according to the provisions of this act, for the purposes of establishing a burial benefit association to pay funeral benefits not to exceed five hundred dollars, shall, with their successors, constitute a body politic and corporate under the name assumed by them in their articles of association: Provided, No two associations organized under this act shall assume the same name or names so similar as to mislead the public.
Proviso.	
Articles, what to state.	(118) SEC. 2. Such articles of association shall state the proposed corporate name of the association; the names and residences of officers and trustees or other persons who are to have or exercise the general control and management of the affairs and funds of the association for the first year, or until the ensuing election, at which all such officers shall be elected by the members; and its principal office or place of business.
Where filed.	(119) SEC. 3. Such articles of association and duly certified copies of the laws, rules and regulations of the said association and copies of all proposed forms of benefit certificates and applications therefor shall be filed with the commissioner of insurance who may require such further information as he may deem necessary. If the purposes of the association conform to the requirements of this act and all provisions of the law have been complied with, the commissioner of insurance shall certify his approval thereof and furnish the incorporators a preliminary certificate authorizing them to solicit members as hereinafter provided.
Preliminary certificate, when granted.	
Completion of organization.	(120) SEC. 4. Upon receipt of said certificate from the commissioner of insurance, said association may solicit members for the purpose of completing its organization and shall collect from each applicant the amount of not more than one assessment in accordance with its table of rates as provided in its constitution and laws, and shall issue to each such applicant a receipt for the amount so collected. No such association shall incur any liability other than for such advance payments nor issue any benefit certificates nor pay or allow or offer, or promise to pay or allow, any person any burial benefit until actual bona fide applications for burial benefit certificates have been secured from at least one hundred persons, and all such applicants shall have been regularly inspected and certificates of such inspections have been duly filed and approved by the secretary of such association.
Benefit certificates, etc., when may be issued.	

Nor until there has been submitted to the commissioner of insurance, under oath of the president and secretary or corresponding officers of such association, a list of such applicants giving their names and addresses with dates of inspection, date of approval, amount of benefits to be granted, and the rate of regular monthly assessments which shall not be lower for burial benefits than those required by the national fraternal congress mortality table for death benefits with interest at four per cent per annum, plus five per cent for admission by inspection in lieu of medical examination. Nor until it shall be shown to the commissioner of insurance by the sworn statement of the treasurer or corresponding officer of such association that at least one hundred applicants have each paid in cash one regular assessment as herein provided for at least fifty dollars each of indemnity to be affected. Such payments shall be credited to the burial benefit fund on account of such applicants and no part of the same shall be used for expenses, and such burial benefit fund shall amount in the aggregate to at least one hundred dollars. Such advance payments shall, during the period of organization, be held in trust for, and if the organization is not completed as hereinafter provided, returned to said applicants.

List of applicants, to whom submitted.

Statement as to assessment.

Advance payments, how held.

(121) SEC. 5. The commissioner of insurance shall make such examination and require such further information as he deems advisable and upon presentation of satisfactory evidence that the association has complied with all the provisions of law, he shall issue to such association a certificate of authority entitling it to transact business until the thirty-first of March of the succeeding year.

Certificate of authority, when granted.

(122) SEC. 6. Such association shall be managed by not less than five trustees, who shall prepare rules and regulations for the management of said association, and shall file a copy of the same with the commissioner of insurance of this state. Such trustees shall have the power to amend the laws from time to time: Provided, That such amendments shall be reasonable and calculated to promote the general welfare of the association.

Trustees, rules, etc.

Proviso.

(123) SEC. 7. Such association shall collect from its membership for burial benefits, of members admitted after medical examination, not less than the fraternal congress table of mortality on a four per cent interest basis, and for those admitted by inspection, not less than five per cent, in excess of fraternal congress table of mortality. Benefits shall be made payable only to the wife, husband, parents, children or some blood relative or member of the family: Provided, The association shall by its by-laws provide for the payment of funeral expenses before the benefits shall be payable to the beneficiary named in the certificate: Provided further, That where the member has no blood relative he may arrange with the association to pay his funeral expenses.

Burial benefits, amount may be collected.

To whom payable.

Proviso, funeral expenses. Further proviso.

Age limit.	(124) SEC. 8. Associations organized under this act shall be permitted to receive members between the ages of one and sixty years, and are expressly prohibited from receiving into membership a child less than one year of age, or an adult who has passed his sixtieth birthday: Provided, That no certificate shall be issued upon the life of any child under ten years of age for more than fifty dollars.
Proviso.	
Reserve fund.	(125) SEC. 9. Any association incorporated under this act may create, maintain, disburse and apply a reserve, emergency or surplus fund in accordance with its constitution and laws, and must at all times have on hand in cash or invested in securities permitted by the insurance laws of this state an amount shown to be necessary to redeem all outstanding contracts on a basis of the fraternal congress table of mortality with four per cent interest. Where members have been admitted by inspection in lieu of medical examination, five per cent in addition to such mortality table requirements shall be charged. If a valuation on the above basis shows the association's benefit fund to be impaired, the commissioner of insurance shall order such association to levy an extra assessment to make good such impairment and such assessment shall be collected within ninety days from date of such notice.
Extra assessment, levy of.	
Annual examination.	(126) SEC. 10. The commissioner of insurance or some person appointed by him, shall examine all associations organized under this act at least once in each year and shall make a valuation of the assets and liabilities of such associations in accordance with the fraternal congress table of mortality, and shall furnish a copy of the report of such examination to each society, and each association organized under this act shall pay the actual expenses of such examination.
Expenses.	
Application for receiver, who to make.	(127) SEC. 11. No application for injunction or other proceedings for the dissolution of or the appointment of a receiver for any such association or branch thereof shall be entertained by any court in this state unless same is made by the attorney general.
Annual statement, what to state, etc.	(128) SEC. 12. Every association transacting business under this act shall annually, on or before the first day of March, file with the commissioner of insurance in such form as he may require, a statement under oath of its president and secretary or corresponding officers, of its condition and standing on the thirty-first day of December next preceding, and of its transactions for the year ending on that date, and shall also furnish such other information as the commissioner of insurance may deem necessary. The commissioner of insurance may at any other time require any other and further statement he may deem necessary relating to such association. Upon receipt of such report, the commissioner of insurance shall, on or before the thirty-first day of March, if he shall be satisfied the association is solvent
Renewal of certificate of authority.	

and carrying out its contracts with its members in good faith, renew the certificate of authority for the succeeding year.

(129) SEC. 13. The benefit funds of such association shall be invested only in securities permitted by the insurance laws of this state: **Benefit funds, investment of.** Provided, Such an association may own real estate for an office building not exceeding in value fifty thousand dollars. No part of such funds shall be used for any other purpose than paying funeral benefits, and for the payment of such necessary clerical expenses as may be designated by any such association. **Proviso.**

(130) SEC. 14. Any association incorporated under this act may amend its articles of association at any regular or special meeting of the members duly called. Notice of such meeting shall be given at least fifteen days prior to the time fixed for holding such meeting, and such notice shall state the time, place and purpose of such meeting. Such amendments shall be concurred in by a majority of the members present and voting upon the same. Such amended articles shall not take effect until they have been examined, approved and filed in the manner provided in section two of this act. **Articles, amendment of, examination, etc.**

(131) SEC. 15. Associations organized under act one hundred seventy-one of the public acts of nineteen hundred three, entitled "An act for the incorporation of associations not for pecuniary profit," that are engaged in a burial benefit business may reincorporate under this act and shall thereby become subject to all its provisions: **Certain associations may reincorporate.** Provided, That if any such association shall not reincorporate under this act such association shall accept no new business or new membership at less rates than those provided to be collected under the provisions of this act: **Proviso.** Provided further, That the membership now existing may continue to follow out the plan in force in such associations at the date of the passage of this act: **Further proviso.** Provided further, That the funds collected from such new members shall be used only for paying benefits to the beneficiaries of such members. **Further proviso.**

An Act to provide for the incorporation of mutual provident associations of volunteer, part paid and fully paid members of organized fire departments.

[Act 117, P. A. 1907.]

The People of the State of Michigan enact:

(132) SECTION 1. Any number of persons not less than seven, being volunteer, part paid or fully paid members of organized fire departments, desirous of being incorporated for the purpose of raising, maintaining and disbursing a fund for the mutual aid of active firemen, to be applied in any or **Number necessary for incorporation.**

Purposes of incorporation.	<p>all of the following manners, under such rules and regulations as may be established by the corporation:</p> <p>First, To provide an indemnity for members totally incapacitated from following their employment by accident or disease;</p> <p>Second, To provide indemnity to members for the loss of hands or feet, or either hand or foot;</p> <p>Third, To provide a death benefit not to exceed one hundred dollars for the burial of such deceased fireman; may become a body corporate in pursuance of this act.</p>
Articles of agreement, how executed, where filed.	<p>(133) SEC. 2. Such persons shall execute under their hands and acknowledge before some person authorized to take acknowledgments of deeds, two or more duplicate articles of agreement, as hereinafter specified, one copy of which shall be filed and recorded in the office of the commissioner of insurance, and a record shall be made of such articles, or of a certified copy thereof, in the clerk's office in the county and state where the office of such association for the transaction of business may be located; and upon the execution and acknowledgment of such articles, the signers thereof, and those who may thereafter become associated with them, shall become a body corporate, for the purposes set forth in said articles.</p>
Articles of association, what to contain.	<p>(134) SEC. 3. The articles of association shall contain:</p> <p>First, The names of the persons associating in the first instance and their places of residence;</p> <p>Second, The name of such corporation and the place where its office for the transaction of business is located;</p> <p>Third, The objects for which said association is organized and the period for which it is incorporated, not to exceed thirty years;</p> <p>Fourth, The number of trustees and officers, and the time and place of holding its annual meeting;</p> <p>Fifth, The terms and conditions of active and honorary membership therein.</p>
Election of officers, filing of bonds, etc.	<p>(135) SEC. 4. Such association shall not commence business until it has fully organized by the election of the proper officers, and the secretary and treasurer shall have given good and sufficient bonds to the association to be held by the president of the association for the faithful performance of their duties, which bonds shall not be less than two thousand dollars and shall be at least twice the amount of money liable to come in their hands as such officers at any one time; said bonds to be approved by the commissioner of insurance.</p>
Acquisition of real estate.	<p>(136) SEC. 5. No such corporation shall have power to take or hold any real estate, except such as may be necessary for the transaction of its business and the purposes for which it is organized.</p>
Funds, how used.	<p>(137) SEC. 6. All funds received by any such corporation shall be used in the first instance, or shall be invested and the income thereof used for the exclusive purposes set forth in the articles of association, and no portion of the</p>

funds of said corporation shall in any case be otherwise applied. No premium shall be paid to any person for procuring members to such association, and the total amount of salaries paid by any such corporation shall not exceed the sum of two hundred dollars per year for each five hundred members.

Salaries of officers, etc.

(138) SEC. 7. The trustees of such corporation shall have power to prescribe the terms, rules and regulations as set forth under the articles of association, upon which members shall be admitted and continued, and entitled to the benefits provided for in the articles of incorporation thereof, and every member shall be deemed to have assented to such terms and conditions by the act of accepting membership.

Trustees may make rules and regulations.

(139) SEC. 8. When, under the rules of any society formed under this act, any money shall become due for the use or benefit of a member, such money shall be free from all claims by the creditors of such member.

Benefits, not subject to claims of creditors.

(140) SEC. 9. The members of any association formed under this act, by a two-thirds vote at any regular meeting, may elect any person to be an honorary member of the society, but no honorary member shall hold office or receive any money benefits from such association.

Election of honorary members.

(141) SEC. 10. Every association doing business under this act shall annually, on or before the first day of March in each year, report to the commissioner of insurance the names and addresses of its president, secretary, treasurer and other officers, and the location of the principal office of such society in this state; and shall make any further statement of its membership and financial transactions for the year ending on the preceding thirty-first day of December, with such other information relating thereto as said commissioner may deem necessary for a proper exhibit of its business and standing; and the commissioner of insurance may at any other time require any further statement he may deem necessary to be made relating to the proper exhibit of the business of such society or association. For the purpose of verifying any such statement, or of ascertaining the true condition of the association making it, the commissioner of insurance may at any time make, or cause to be made, an examination of the affairs of any such association doing business under this act, at the expense of such association.

Annual report.

Examination of affairs.

(142) SEC. 11. Upon the filing of such annual statement, if the commissioner shall find that the association making the same is still organized and doing business in conformity to the provisions of this act, and that the financial condition of the association is satisfactory, and the society has complied with the provisions of the law, he shall issue his certificate authorizing such association to do business in this state for a period of one year from the first day of April of the year of its issuance, unless sooner revoked.

Certificate of authority.

An Act to provide for the incorporation of a mutual benefit society
in the county of Mason, state of Michigan.

[Act 71, P. A. 1907.]

The People of the State of Michigan enact:

When society
may incor-
porate.

Manner of
incorporation.

Rights of
corporation.

Funds.

Mortuary
fund.

Report to in-
surance com-
missioner.

(143) SECTION 1. Any society heretofore or hereafter organized, the membership in which, at the time of becoming members, is confined to the residents of Mason county, and having for its object the payment of a sum or sums of money to designated beneficiaries, on the death of a member, or the payment of sick or funeral benefits, or all or any one of such objects, may become a body corporate in the following manner: At any regular meeting of such society, due notice having been given at the preceding regular meeting, a vote shall be taken on the question, "Shall this society become a body corporate?" And when said question shall have been adopted by a vote of two-thirds of the members present and voting thereon, said society shall file in the office of the secretary of state, and also in the office of the county clerk, a copy of the constitution and by-laws of said society, and also a copy of the above vote, certified to by the president and secretary of said society, and said society shall thereupon become a body corporate and may sue and be sued.

(144) SEC. 2. No corporation formed in accordance with the provisions of this act, shall issue stock or borrow money, or hold invested funds, or acquire or hold real estate, except such as may be necessary for the transaction of its business.

(145) SEC. 3. The funds of such corporation shall be derived from assessments upon its members and shall be collected and applied only as prescribed in its constitution and by-laws.

(146) SEC. 4. Such corporation may provide, in its constitution and by-laws, and in its certificates of membership, that each person, upon becoming a member of such society, shall pay an equal and stipulated sum, into its mortuary fund, to be deposited in a savings or other bank, and that such fund so accumulated, with its own earnings, shall constitute the amount of benefits to be paid to the beneficiary or beneficiaries of the member first dying, and that upon the death of a member, a new mortuary fund shall be created by a like assessment upon each of said members remaining and each new member upon becoming a member, so that the amount of death benefits to be paid by such society shall be governed by the number of members in good standing, and the amount earned by such fund, so deposited in such bank.

(147) SEC. 5. Every such corporation shall, when by him requested to do so, and upon blanks, by him furnished, report to the insurance commissioner, all facts concerning its business, which he may require, and shall be subject to the supervision of said commissioner, according to the provisions

of sections fifteen and twenty-two of act one hundred eighty-seven of the public acts of eighteen hundred eighty-seven, so far as the same may be applicable and not in conflict with the provisions of this act.

(148) SEC. 6. Any society, coming within the purview of this act, that may have heretofore become incorporated under and by virtue of any other law, may secure the benefits and provisions of this act, by filing in the office of the secretary of state and also in the office of the county clerk of said Mason county, notice in writing, signed by its president and secretary, of its desire so to do.

Former corporations may receive benefit of this act.

CHAPTER V.—FRATERNAL BENEFICIARY SOCIETIES.

An Act to define what shall constitute fraternal beneficiary societies, orders or associations; to provide for their incorporation and the regulation of their business, and for the punishment for violation of the provisions of the act of their incorporation, and to repeal all existing acts inconsistent therewith.

[Act 119, P. A. 1893.]

The People of the State of Michigan enact:

(149) § 7740. SECTION 1. That a fraternal beneficiary association is hereby declared to be a corporation, society or voluntary association having a lodge system with ritualistic form of work and a representative form of government, formed or organized and carried on for the sole benefit of its members and their beneficiaries and not for profit. Such association making provision for the payment of death benefits, may, in addition thereto, provide for the payment of benefits in the case of accident, sickness, disability, or old age of its members. The fund from which the payment of such benefits shall be made, and the fund from which the expenses of such association shall be defrayed, shall be derived from assessments or dues collected from its members. Payment of death benefits shall be made only to the wife, husband, children and dependent children, mother, father, sister, brother, or blood relatives to the fourth degree of the member: Provided, That where an applicant or member has no relative as above provided, to whom he may make his certificate payable, in such case he may designate any other person or make his estate his beneficiary. Such association shall be governed by this act and shall be exempt from the provisions of the insurance laws of this state, excepting as provided by this act: Provided further, That when the laws of any such association already provide that an affianced wife, or any other person who is dependent upon the member for maintenance, food, wife.

Certain associations defined.

Funds for payment of benefits, how derived.

Proviso as to beneficiary.

How governed.

Further proviso as to affianced wife.

Further
proviso as to
death claim.

Proviso as to
certain
association.

clothing, lodging or education, may be made the beneficiary, payment of death benefits may be made to such beneficiaries but no certificate of membership shall be made payable to, nor any death benefit paid to an affianced wife, or any beneficiary by reason of dependency as hereinbefore provided, unless satisfactory proof of such affianced relation or dependency shall have been filed with, and accepted by, the executive officers of such association: And provided further, That no death claim shall be a valid claim against any such association, where the deceased member came to his or her death by unlawful means, at the hands or through the procurement or connivance of the beneficiary named therein, and as to such beneficiary, the benefit certificates issued to such deceased member shall become null and void: Provided, That the provisions of this section requiring a ritualistic form of work shall not apply to the New Era Association of Grand Rapids, heretofore incorporated and doing business under the provisions of this act.

Am. 1901, Act 226.

FUNERAL BENEFITS: Act 68 of 1905 amends section 8 of Act 171 of 1903, "An act for the incorporation of associations not for pecuniary profit," so as to read as follows: Sec. 8. Nothing in this act contained shall permit any company, association or society to transact any insurance business other than the payment of a funeral benefit of not to exceed two hundred dollars.

Walker v. Ins. Com'r, 103 / 344. The title to this act not objectionable for duplicity.—*McMorran v. L. O. T. M.*, 117 / 398. A fraternal beneficiary association organized under this act may amend its articles of association under the general statute relating to corporations (C. L. 1897, section 8533), if not authorized so to do by the organic act.—*Great Hive L. O. T. M. v. Sup. Hive*, 129 / 324. See *Mathewson v. Sup. Council R. A.*, 146 / 671.

SERVICE OF PROCESS: See *Monger v. New Era Association*, 145 / 683.

MISCELLANEOUS: The parties to a mutual benefit certificate may expressly agree to be bound by after-enacted by-laws.—*Wineland v. K. O. T. M. W.*, 148 / 608. Change in plan of assessment.—*Id.* Under a by-law providing that a divorce shall annul a designation of a member's wife as his beneficiary, the divorced wife of a member, designated as his beneficiary prior to divorce, does not become his widow upon his death, and has no interest in the certificate.—*Dahlin v. K. O. T. M. M.*, 151 / 644. Where the designation of a beneficiary having no insurable interest was not prohibited by the by-laws when made, the subsequent adoption of a by-law prohibiting such designation, not indicating that it is intended to apply to designations already made, will not invalidate such designation.—*Dolan v. Catholic Mutual Benefit Ass'n*, 152 / 266. Exemption of fraternal beneficiary societies from operation of general insurance laws.—*K. O. T. M. M. v. Com'r of Insurance*, 155 / 693.

Number re-
quired to form
such society.

(150) § 7741. SEC. 2. Any number of persons not less than nine, residents of the state of Michigan, and citizens of the United States, hereafter desiring to form a fraternal beneficiary society, order or association for the purpose set forth in section one of this act, may associate themselves together and effect such organization as hereinafter prescribed and not otherwise.

Certain
associations
may continue
business.

(151) § 7742. SEC. 3. All such associations coming within the description as set forth in section one of this act, organized under the laws of this or any other state, province or territory, and now doing business in this state, and all associations of any other state which have been authorized by the commissioner of insurance to do business in this state and have been doing business herein for the period of five

years and upwards, may continue their business: **Provido.** That they hereafter comply with the provisions of this act regulating annual reports and the designation of the commissioner of insurance as the person upon whom process may be served as hereafter provided: And provided further, That suits may be commenced in the circuit court in any county where the plaintiff resides, by declaration or writ, and service shall be made in such cases only upon the commissioner of insurance in like manner and with like effect as is hereinafter provided for the service of process upon societies, orders or associations organized under the laws of any other state, province or territory and doing business in this state, and not having its principal office within this state, and for the purpose of service of process as herein provided such society, order or association shall appoint in writing the commissioner of insurance, or his successor in office, to be its true and lawful attorney: And provided further, That the trial judge may, when there is a recovery by the plaintiff in any suit commenced in the circuit court, award costs to plaintiff, notwithstanding the fact that the amount recovered is less than one hundred dollars. **Provido, commencement of suits, service of process.**

Am. 1903, Act 44; 1907, Act 175.

The words "such business" mean such business as was authorized under the act under which the association was incorporated.—Walker v. Commissioner of Insurance, 103 / 344.

(152) § 7743. SEC. 4. Any such association coming within the description as set forth in section one of this act, organized under the laws of any other state, province or territory, and not now doing business in this state, shall be admitted to do business within this state when it shall have filed with the commissioner of insurance a duly certified copy of its charter and articles of association, and a copy of its constitution or laws, certified to by its secretary, or corresponding officer, satisfactory proof to the effect that such association has paid all death claims in full for the period of at least one year immediately preceding, together with an appointment of the commissioner of insurance of this state, as a person upon whom process may be served as hereinafter provided: And provided, That such association shall be shown by certificate to be authorized to do business in the state, province or territory in which it is incorporated or organized in case the laws of such state, province or territory shall provide for such authorization; and in case the laws of such state, province or territory do not provide for any formal authorization to do business on the part of any such association, then such association shall be shown to be conducting its business in accordance with the provisions of this act, for which purpose the commissioner of insurance of this state may, personally, or by some person to be designated by him, examine into the condition, affairs, character and business methods, accounts, books and investments of such association **Foreign associations, admission of.**

at its home office, which examination shall be at the expense of such association.

Annual report.

(153) § 7744. SEC. 5. Every such association doing business in this state shall, on or before the first day of March of each year, make and file with the commissioner of insurance of this state a report of its affairs and operations during the year ending on the thirty-first day of December immediately preceding, together with a copy of its constitution and laws then in force, which annual report shall be in lieu of all other reports required by any other law. Upon receiving such report and copy of the laws or constitution the commissioner shall examine them and if they are found to be in conformity with the provisions of this act he shall issue to such association a license or certificate of authority to continue its business for another year, and no such association shall be authorized to do any business unless so licensed. Such reports shall be upon blank forms to be provided by the commissioner of insurance, or may be printed in pamphlet form, and shall be verified under oath by the duly authorized officers of such association, and shall be published, or the substance thereof, in the annual report of the commissioner of insurance under a separate part entitled "Fraternal Beneficiary Associations," and shall contain answers to the following questions:

When found to conform, issue certificate.

Questions to be answered.

1. Number of certificates issued during the year, or members admitted.
2. Amount of indemnity effected thereby.-
3. Number of losses or benefit liabilities incurred.
4. Number of losses or benefit liabilities paid.
5. The amount received from each assessment for the year.
6. Total amount paid members or beneficiaries.
7. Number and kind of claims for which assessments have been made.
8. Number and kind of claims compromised or resisted, and brief statement of reasons.
9. Does association charge annual or other periodical dues or admission fees?
10. How much on each one thousand dollars annually or per capita, as the case may be.
11. Total amount received, from what source, and the disposition thereof.
12. Total amount of salaries paid to officers.
13. Does association guarantee, in its certificate, fixed amounts to be paid regardless of amount realized from assessments, dues, admission fees and donations?
14. If so, state amount guaranteed, and the security of such guaranty.
15. Has the association a reserve fund?
16. If so, how is it created, and for what purpose, the amount thereof, and how invested.
17. Has the association more than one class?
18. If so, how many and the amount of indemnity in each.

19. Number of members in each class.

20. If a voluntary association, so state, and give date of organization.

21. If organized under the laws of this state, under what law and at what time, giving chapter and year and the date of passage of the act.

22. If organized under the laws of any other state, province or territory, state such fact and the date of organization, giving chapter and year and date of passage of the act.

23. Number of benefit certificates lapsed during the year.

24. Number in force at beginning and end of year; if more than one class, number in each class.

25. Names and address of its president, secretary and treasurer, or corresponding officers.

The commissioner of insurance is authorized and empowered to address any additional inquiries to any such association in relation to its doings or condition, or any other matter connected with its transactions relative to the business contemplated by this act, and such officers of such association as the commissioner of insurance may require shall properly reply in writing under oath, to all such inquiries.

(154) § 7745. SEC. 6. Each such association now doing or hereafter admitted to do business in this state and not having its principal office within this state, and not being organized under the laws of this state, shall appoint in writing the commissioner of insurance or his successor in office to be its true and lawful attorney upon whom all lawful process in any action or proceeding against it may be served and when so served on said attorney shall be of the same legal force and validity as if served upon the association, and that the authority shall continue in force so long as any liability remains outstanding in this state. Copies of such certificate, certified by said commissioner of insurance, shall be deemed sufficient evidence thereof, and shall be admitted in evidence with the same force and effect as the original thereof might be admitted. When legal process against any such association is served upon said commissioner of insurance, he shall immediately notify the association of such service by letter prepaid and directed to its secretary, or corresponding officer; and shall within two days after such service forward in the same manner a copy of the process served on him to such officer. The plaintiff in such process so served shall pay to the commissioner of insurance at the time of such service a fee of three dollars, which shall be recovered by him as part of the taxable costs, if he prevails in the suit. The commissioner of insurance shall keep a record of all processes served upon him, which record shall show the day and hour when such service was made.

When insurance commissioner appointed as attorney for.

Copies of certificate certified to, deemed evidence.

Fee.

(155) § 7746. SEC. 7. The commissioner of insurance of this state shall upon the application of any association having the right to do business within this state as provided by this act, issue to such association a permit in writing author-

When insurance commissioner to issue permit.

Who to file declaration.	izing such association to do business within this state, for which certificate, and all proceedings in connection therewith, such association shall pay to said commissioner the fee of five dollars.
What to contain.	<p>(156) § 7747. SEC. 8. Such persons as provided in section two of this act shall file in the office of the commissioner of insurance a declaration signed by each of the corporators, and duly acknowledged before an officer authorized under the laws of this state to take acknowledgment of deeds, and shall therein express their intention to form a fraternal beneficiary society, order or association for fraternal beneficiary purposes. Said declaration shall also contain the proposed name of the society, order or association, which shall not be the same as, nor too closely resemble, the name of any other society, order or association organized under the laws of this state, or doing business in this state; the mode and manner in which the corporate powers granted by this act are to be exercised; the place of doing business fully and clearly defined; the limit as to age of applicant for beneficiary membership, which shall not exceed fifty-five years, and that medical examinations are required of applicants for life benefits; the names and official titles of the officers, trustees and directors, representatives or other persons, by whatsoever name or title designated, having and exercising the general control and management of its affairs and all its funds, who shall be elected after the first year by representatives chosen by the subordinate lodges, councils or bodies, or grand lodges, grand councils or bodies, as the laws of the society, order or association may provide, and who shall be members of such society, order or association. The president, secretary and treasurer or corresponding officers of such association, shall be residents of the state of Michigan and citizens of the United States.</p>
Officers to reside in state.	Am. 1901, Act 160; 1905, Act 3.
When commissioner to deliver licenses and articles to corporation.	<p>(157) § 7748. SEC. 9. Upon the filing in the office of said commissioner of the declaration required by the last preceding section, together with the sworn statement by three of said corporators that at least two hundred persons eligible under the proposed laws of such society, order or association, to membership therein, have in good faith made application in writing for membership, and if by him found conformable to the requirements of this act, and not inconsistent with the constitution and laws of the United States and of this state, he shall thereupon deliver to such society, order or association a certified copy of the papers so filed and recorded in his office, together with a license or certificate of said commissioner to such society, order or association, to carry on the work of a fraternal beneficiary society, order or association, as proposed in said declaration. Upon such certified copy and license or certificate being filed in the office of the com-</p>
When to be constituted body corporate.	

missioner of insurance, and when at least two hundred persons have subscribed in writing to be beneficiary members therein and have paid in one full assessment in cash according to its proposed laws, and the commissioner of insurance shall have certified that it has complied with the provisions of this act and is authorized to transact business, the said corporators and those who may hereafter become associated with them, or their successors shall be constituted a body politic and corporate, with the powers and privileges of a fraternal beneficiary society, order or association. Such society, order or association may, by a vote of the governing body, hold its regular stated meetings in any state or territory in the United States, or in any province of Canada where subordinate lodges, councils or bodies may exist and are under the jurisdiction of the supreme, grand or governing lodges; and all business transacted at any such meetings shall have the same force and effect as if transacted in this state.

Where meetings may be held.

Am. 1901, Act 160.

A benefit association, authorized to secure to the families of deceased members certain sums by assessments at their death, or to members disabled by sickness or otherwise, cannot issue certificates for an endowment payable at a fixed period.—*Calkins v. Bump*, 120 / 335; *Walker v. Ins. Com'r*, 103 / 344.

(158) § 7749. SEC. 10. Any fraternal beneficiary society, order or association, as defined by section one of this act, transacting business in this state, and incorporated under the laws of this state, may reincorporate under the provisions of this act by filing with said commissioner a declaration adopted by the board of trustees, directors, council, committee, or other governing body of said association and signed and duly acknowledged by the president, secretary and treasurer with the seal thereof, which shall contain the name of such corporation, the mode and manner in which the corporate powers granted by this act are to be exercised, the name and official title of the officers, trustees, representatives, or other persons, by whatsoever name or title designated, who are to have and exercise the general control and management of its affairs and all its funds, and the mode and manner of their selection, and the place where the principal office for the transaction of business within the state is located. Upon the filing in the office of said commissioner of the declaration herein required, together with the sworn statement of three of said officers, that at least two hundred persons are bona fide members of said society, order or association, and that one full assessment has been paid in according to its laws, and if found conformable to the provisions of this act, the said commissioner shall record and deliver to such association or society a certified copy of such declaration and such certificate, together with his license to carry on the work of a fraternal beneficiary society, order or association, as proposed in said declaration; and upon

Any society defined by this act may reincorporate.

Sworn statement of officers.

the same being filed in the office of the clerk of the county wherein the principal office for the transaction of its business is located, the said society, order or association shall thereupon be duly incorporated under the provisions of this act: **Proviso.** Provided always, That nothing in this act contained shall be construed as requiring or making it obligatory upon any existing fraternal beneficiary society, order or association to re-incorporate under the provisions of this act.

When subordinate lodges admitted to do business in this state.

(159) § 7750. SEC. 11. Any subordinate body of any fraternal beneficiary society, order or association, incorporated under the provisions of this act, or of any such society, order or association now doing business or may hereafter be admitted to do business in this state under this act may become a body corporate in the manner following: At some regular meeting of such subordinate body a resolution expressing the desire of such subordinate body to be incorporated and directing its officers to perfect such incorporation, shall be submitted to a vote of the members present, and if two-thirds of the members present and voting [vote] therefor, the president and secretary of such subordinate body, or the officers holding relative offices therein, shall prepare articles of association under their hands and the seal of such subordinate body setting forth first, the number of members of such subordinate body then in good standing; second, the name by which said subordinate body is known; third, the date of its organization and the period for which it is to be incorporated, not exceeding thirty years.

When a voluntary association becomes a body corporate by a vote of two-thirds of the members present at a regular meeting, the property of such association is not vested in the corporation, unless the remaining members acquiesce.—Schiller Commandery v. Jaennichen, 116/129.

Articles of association filed with county clerk.

(160) § 7751. SEC. 12. A copy of such articles of association shall be filed with the county clerk of the county within which such subordinate body holds its stated meetings, and shall by him be recorded, together with the affidavit hereafter named by such clerk, in a book to be kept for that purpose.

Secretary to annex his affidavit.

(161) § 7752. SEC. 13. On the execution of said articles of association and before the filing thereof with the county clerk, the secretary of such subordinate body shall annex thereto his affidavit stating that he is a member in good standing in such subordinate body and occupies the position of secretary, or the office corresponding therewith therein, and that the resolution, a copy of which shall be set forth at length was regularly passed at a regular meeting of said subordinate body and received the vote of two-thirds of the members present and voting, and that to the best of his knowledge and belief the statement made in the articles of association are true, and that such subordinate body is organized and acting under the laws of its respective society, order or association, giving the name by which such society, order or association is incorporated.

(162) § 7753. SEC. 14. When the foregoing requirements are complied with, such subordinate body shall be a body corporate by the name expressed in such articles, and by that name shall be a person in law capable of suing and being sued in the courts, and taking and holding property of every kind the same as natural persons, and a copy of said articles of association duly certified to by the clerk of the county, in whose possession they are, shall be prima facie evidence in all courts and places of the existence, and the due incorporation of such subordinate body.

When requirements complied with, shall be body corporate.

A beneficiary association, duly incorporated, cannot be dissolved by the voluntary acts of its officers.—*Calkins v. Bump*, 120/335.

(163) § 7754. SEC. 15. The money or other benefit, charity, relief or aid to be paid, provided or rendered by any association authorized to do business under this act, shall not be liable to attachment by trustee, garnishee or other process, and shall not be seized, taken, appropriated or applied by any legal or equitable process, or by operation of law, to pay any debt or liability of a certificate holder, or of any beneficiary named in a certificate, or of any person who may have any right thereunder. And all dues, assessments and other payments and the accumulations thereof, held and possessed by said association for the payment of death, sick or disability benefits, and the reserve, emergency and other mortuary funds of said association shall be exempt from taxation for state, county and municipal purposes.

Money not liable to attachment.

Dues, etc., exempt from taxation.

Am. 1903, Act 53.

The provision of exemption from garnishment is germane to the title.—*McMorran v. L. O. T. M.*, 117/398.

(164) § 7755. SEC. 16. Any person, officer, member or examining physician, who shall knowingly or wilfully make any false or fraudulent statement or representation, in or with reference to any application for membership, or for the purpose of obtaining any money or benefit in any association transacting business under this act, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or imprisonment in the county jail for not less than thirty days nor more than one year, or both, in the discretion of the court; and any person who shall wilfully make a false statement of any material fact or thing in a sworn statement as to the death or disability of a certificate holder in any such association for the purpose of procuring payment of a benefit named in the certificate of such holder, and any person who shall wilfully make any false statement in any verified report or declaration under oath required or authorized by this act, shall be guilty of perjury, and shall be proceeded against and punished as provided by the statutes of this state in relation to the crime of perjury.

False statements.

Perjury.

Avoidance of policy by false statement.—*Finch v. Modern Woodmen of America*, 113/646.

Associations
refusing to re-
port, prohib-
ed from doing
business.

(165) § 7756. SEC. 17. Any such association refusing or neglecting to make the report as provided in this act, shall be excluded from doing business within this state. Said commissioner of insurance must, within sixty days after failure to make such report, or in case any such association shall exceed its powers or shall conduct its business fraudulently or shall fail to comply with any of the provisions of this act, give notice in writing to the attorney general, who shall immediately commence an action against such association to enjoin the same from carrying on any business. No association so proceeded against shall have authority to continue business until such report shall be made or overt act or violations complained of shall have been corrected, nor until the costs of such action be paid by it, provided the court shall find that such association was in default as charged, whereupon the commissioner of insurance shall reinstate such association, and not until then shall such association be allowed to again do business in this state. Any officer, agent or person acting for any association within this state, or for a subordinate branch thereof, while such association shall be so enjoined or prohibited from doing business pursuant to this act, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be punished by a fine not less than twenty-five dollars nor more than two hundred dollars, or by imprisonment in the county jail not less than thirty days nor more than one year, or by both such fine and imprisonment, in the discretion of the court. And no injunction against any such association shall be granted by any court except on application by the attorney general, at the request of the commissioner of insurance.

When associa-
tions to be re-
instated.

Misdemeanor.

Penalty.

Violation, a
misdemeanor.

(166) § 7757. SEC. 18. Any person who shall act within this state as an officer, agent or otherwise, for any association which shall have failed, neglected or refused to comply with, or shall have violated any of the provisions of this act, or shall have failed or neglected to procure from the commissioner of insurance proper certificate of authority to transact business as provided for by this act, shall be subject to the penalty provided in the last preceding section for the misdemeanor therein specified.

What societies
come under
this act.

(167) § 7758. SEC. 19. Nothing in this act shall be construed to apply to any corporation, society or association carrying on the business of life, health, casualty or accident insurance for profit or gain, and shall only apply to fraternal beneficiary societies, orders or associations as defined by section one.

K. O. T. M. M. v. Com'r of Insurance, 155 / 693.

Certain
lodges, etc.,
not affected.

(168) § 7759. SEC. 20. Nothing in this act contained shall be construed to affect any grand or subordinate lodge or branch of any such fraternal beneficiary society, order or association, which limits its certificate holders to a particular religious denomination, or to the employes of a particular

town or city designated, firm, business house or corporation, nor the grand or subordinate lodges of the Independent Order of Odd Fellows, as they now exist, nor any grand, subordinate lodge, or other body of Free and Accepted Masons, nor the grand or any subordinate lodge of the Knights of Pythias, exclusive of the endowment rank, nor the Locomotive Engineers Mutual Life and Accident Insurance Association: Provided, That the United States Benevolent Society of Saginaw, the Michigan Home and Hospital Association of Grand Rapids, the National Protective Society of Bay City, the American Benevolent Society of Traverse City, heretofore incorporated and doing business, are hereby exempted from the provisions of said act requiring a lodge system with ritualistic form of work, on complying with all other provisions of said act.

Proviso,
certain socie-
ties exempted
from ritual-
istic work.

Am. 1909, Act 74.

Wineland v. Maccabees of the World, 148 / 612.

(169) SEC. 21. Any association incorporated or doing business under this act may amend its articles of incorporation at any of its regular stated meetings by a two-thirds vote: Provided, That notice of intention so to do shall be published in the official organ of the association (in the event such association has no official organ, then either a written or printed notice of such intention shall be mailed to each of the subordinate bodies of such association) at least sixty days prior to the meeting at which such amendment is to be considered. All such amendments and the proceedings relating thereto, together with proof of notice as above provided, shall be duly certified and filed within sixty days after their adoption in the office of the commissioner of insurance.

How may
amend
articles.

Proviso.

Sections 21 and 22 were added 1901, Act 160.

(170) SEC. 22. All the official books, papers, records and other personal property belonging to associations organized under this act, or any subordinate body thereof, shall be kept at the home office of the association, except in the case of said subordinate bodies the same shall be kept in such place as the laws of the association shall provide, and the same shall at all times be open to the inspection of the commissioner of insurance. And any officer or other person who shall take, carry away, or in any manner dispose of said books, papers, records or other personal property from said home office or other place, as above designated, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be subject to the same penalty provided in section seven thousand seven hundred fifty-six, compiled laws of eighteen hundred ninety-seven, for the misdemeanor therein specified: Provided, That by a two-thirds vote of the trustees, directors or executive council having general control and management of the affairs of the said association, such books, papers, records, or other property may be taken into the possession of and retained

Records, etc.,
where kept.

To be open to
inspection.

Penalty for
disposing
of books,
records, etc.

Proviso.

in such manner as such trustees, directors or executive council may direct.

Not to consolidate or reinsure except as provided.

(171) SEC. 23. No society organized under the laws of this state shall consolidate with any other society, or reinsure its risks or any part thereof with any other society, or assume or reinsure the whole of or any portion of the risks of any other society, except as hereinafter provided.

Added 1907, Act 186.

Petition to consolidate.

(172) SEC. 24. When any such society shall propose to consolidate with any other society, or enter into any contract of reinsurance, it shall present its petition to the commissioner of insurance of this state, setting forth the terms and conditions of such proposed consolidation or reinsurance, and praying for the approval or of any modification thereof, which the commission hereinafter provided for may approve. The commissioner of insurance shall thereupon issue an order of notice, requiring notice to be given by mail to the members of such society, of the pendency of such petition, and the time and place at which the same will be heard, and the publication of said order of notice and said petition, in five daily newspapers designated by the commissioner of insurance, at least one of which shall be published in the city of Lansing for at least two weeks before the time appointed for the holding of such hearing.

To issue order of notice.

Publication of notice and petition.

Idem.

Commission, membership of.

Hearing, when held.

Attendance and testimony of witnesses.

When commission may authorize consolidation, etc.

(173) SEC. 25. The governor of the state or in event of his inability to act, some competent person resident of the state to be appointed by him, the attorney general of the state, and the commissioner of insurance of the state shall constitute a commission to hear and determine upon said petition. At the time and place fixed in said notice, or such time and place as shall be fixed by adjournment, said commission shall proceed with said hearing, and may make such examination into the affairs and conditions of said society as it may deem proper. The commissioner of insurance of this state shall have the power to summon and compel the attendance and testimony of witnesses and the production of books and papers before said commission. Any policy holder or member of the above named society or societies may appear before said commission and be heard in reference to said petition. Said commission, if satisfied that the interests of the policy holders and members of such society or societies are properly protected and that no reasonable objection exists thereto, may approve and authorize the proposed consolidation or reinsurance, or of such modification thereof as may seem to it best for the interests of the members and policy holders, and said commission may make such order with reference to the distribution and disposition of the surplus assets of any such society there-

after remaining, as shall be just and equitable. Such consolidation or reinsurance shall only be approved by the consent of all the members of said commission, and it shall be the duty of said commission to guard the interests of the policy holders and members of any such society or societies proposing to consolidate or reinsure. All expenses and costs incident to proceedings under this section shall be paid by the society or societies bringing said petition.

Approval by
consent of all
members.

Costs, how
paid.

Idem.

(174) SEC. 26. Any officer or member of any such society or societies violating or consenting to the violation of sections twenty-three, twenty-four and twenty-five, or any of them, shall be punished by fine of not less than five hundred dollars and by imprisonment in the county jail for not less than one year.

Penalty.

Idem.

CHAPTER VI.—FIRE AND MARINE INSURANCE COMPANIES.

An Act relative to the organization and powers of fire and marine insurance companies transacting business within this state.

[Act 136, P. A. 1869.]

The People of the State of Michigan enact:

(175) § 7224. SECTION 1. That any number of persons, not less than seven, may associate together and form an incorporated company for either of the following purposes, to wit:

Formation of
company.

First, To make insurance on dwelling houses, stores, and all kinds of buildings, and upon household furniture, goods, wares and merchandise, and any other property, against loss or damage by fire;

Classes of
companies.

Second, To make insurance as aforesaid upon vessels, freights, goods, wares, merchandise and other property, against the risks of inland navigation and transportation.

The general purpose of this act may be stated to be, to regulate the business of fire and marine insurance within the state, whether carried on by corporations, existing in virtue of organization under its laws, or by foreign corporations, associations or partnerships. The title is quite comprehensive and aptly indicates the intent.—*People v. State Insurance Co.*, 19/398.

INSURANCE CONTRACT: An agreement by which one party, for a consideration, promises to make a certain payment of money upon the destruction or injury of something in which the other has an interest.—*Rensenhous v. Seeley*, 72/617. The underlying principle is complete indemnity.—*Wardle v. Townsend*, 75/391. A policy, or a delivery thereof, is not essential to the contract.—*Mich. Pipe Co. v. Insurance Co.*, 92/491. Nor need the premiums be expressly agreed upon and paid, or credit expressly given, to make a valid contract.—*Id.* A contract of insurance is executed by the insured by payment of the premium, while it is executory by the company.—*Clawson v. Fire Ins. Co.*, 121/591. Insurance is a personal contract and

does not pass with the title to the premises.—*Disbrow v. Jones*, Har. 48. On buildings, it is personal and not real.—*Clay F. & M. Ins. Co. v. Salt & Lumber Co.*, 31/346. Divisibility of insurance contract.—*Aetna Ins. Co. v. Resh*, 44/55. Does not enure to benefit of strangers.—*Perrott v. Shearer*, 17/48. When this rule does not apply.—*Monaghan v. Ag'l F. Ins. Co.*, 53/238. A written application, the policy and the note given in payment are parts of the same transaction and should be construed together.—*Am. Ins. Co. v. Stoy*, 41/385. The charter and by-laws of a stock company do not constitute a part of the contract of insurance, unless made so by special agreement.—*Id.* When there is no contract.—*Lumber Co. v. Insurance Co.*, 96/20. An insurance contract, so far as the public is concerned, stands on no different basis from other contracts.—*Armstrong v. Insurance Co.*, 96/137. One who accepts a policy of insurance, issued upon his written application, cannot ignore the written contract of insurance and sue on a preliminary parol agreement with the agent for a policy of different form; his remedy, in case of fraud or mistake, being the reformation of the contract by a court of equity.—*Kleis v. Niagara F. Ins. Co.*, 117/469.

APPLICATION: Relation of application to insurance contract.—*Peoria M. & F. Ins. Co. v. Perkins*, 16/380; *Throop v. N. A. F. Ins. Co.*, 19/423; *Am. Ins. Co. v. Stoy*, 41/385; *Kleis v. Niagara F. Ins. Co.*, 117/469. Ambiguous statements and answers therein.—*Aetna L. S., etc., Ins. Co. v. Olmstead*, 21/246; *N. A. F. Ins. Co. v. Throop*, 22/146. As to the statements in, being warranties.—*Peoria M. & F. Ins. Co. v. Perkins*, 16/380; *Throop v. N. A. F. Ins. Co.*, 19/423; *Am. Ins. Co. v. Gilbert*, 27/429; *Van Buren v. St. Joseph Co., etc., Ins. Co.*, 28/398. Where a policy of fire insurance is issued upon the written application of the insured, such application becomes a part of the contract and the statements therein have the force of warranties, though it is not referred to in the policy.—*Cronin v. Fire Association*, 123/277. When the application is made a warranty, misstatements therein invalidate the insurance.—*Aetna Ins. Co. v. Resh*, 40/241. The statement of an applicant for insurance that he holds the property sought to be insured on contract, does not, in itself, amount to a misrepresentation, although the contract runs to himself and wife.—*Miotke v. Insurance Co.*, 113/166.

CONCEALMENT OR FAILURE TO DISCLOSE: Failure to state fact of pending litigation over the premises insured, held not to vitiate policy.—*Hill v. Lafayette Ins. Co.*, 2/476. Untrue statements as to incumbrances and fears of incendiarism.—*N. A. F. Ins. Co. v. Throop*, 22/146. Failure to disclose the amount of interest when required, invalidates.—*Ag'l Ins. Co. v. Montague*, 38/548. A statement of absolute title, when the property is held by the applicant and wife, avoids.—*Aetna Ins. Co. v. Resh*, 40/241. The failure to disclose a mortgage given on the homestead by the wife alone does not avoid.—*Watertown Ins. Co. v. G. & B. Sew. Mach. Co.*, 41/131. Effect of misstatements and concealments, etc., when the application is filled out by the agent of the insurer.—*N. A. F. Ins. Co. v. Throop*, 22/146; *Am. Ins. Co. v. Gilbert*, 27/429; *Van Buren v. St. Joseph, etc., Co.*, 28/398; *Mich. St. Ins. Co. v. Lewis*, 30/41. Or where the conduct or statements of the agent have misled the insured.—*Westchester F. Ins. Co. v. Earle*, 33/143.

PROPERTY AND INTERESTS INSURED: Not necessary that the precise nature of the interest insured should appear in the application, unless distinctly required. Insurance made for various parties having several, as well as joint interests, is good for all.—*Castner v. Insurance Co.*, 46/18. An estate by entirety is an insurable interest in the whole premises.—*Clawson v. Clt. Mut. F. Ins. Co.*, 121/591. Insurance in property in which the insured has no interest is void.—*O'Hara v. Carpenter*, 23/416. Insurance taken in good faith on goods belonging to the wife of the insured is void, even though the company had full knowledge of the facts of ownership.—*Ag'l Ins. Co. v. Montague*, 38/548. But parties having the custody of property belonging to others as factors, agents and consignees, may insure for the benefit of the owners.—*Castner v. Farmers' Mut. Ins. Co.*, 46/18. The prohibitory liquor law of 1855 did not invalidate insurance upon intoxicating liquors.—*Niagara F. Ins. Co. v. De Graff*, 12/124. When insurance by a partner upon firm property is considered to be for the firm and when upon his own interest only.—*Peoria M. & F. Ins. Co. v. Hall*, 12/202. See *Insurance Co. v. Verdier*, 33/138. Insuring a class of goods, as a "stock of groceries," includes what is usually contained in it, whether extra hazardous or not.—*Niagara F. Ins. Co. v. DeGraff*, 12/137. One-story addition just back of the building insured deemed to be part of it.—*Boyer v. Fire Ins. Co.*, 124/455. A description construed.—*N. A. F. Ins. Co. v. Throop*, 22/146. Silver forks and tea and table spoons are not included in the term "plate," so as to be excluded from a policy by a clause excluding "money, bullion, jewels, plate and watches," unless particularly specified.—*Hanover F. Ins. Co. v. Mannasson*, 29/316. Milk cans are "packages" within the terms of a fire insurance policy covering merchandise on a creamery, consisting of butter and cheese, and all materials and supplies, "including packages."—*Cronin v. Fire Association*, 112/106. Sufficient statement of valuation.—*Residence F. Ins. Co. v. Hannawold*, 37/103. Over-valuation.—*Am. Ins. Co. v. Gilbert*, 27/429; *Farmers' Mut. F. Ins. Co. v. Crampton*, 43/421; *McIntyre v. Mich. St. Ins. Co.*, 52/188; *English v. Franklin F. Ins. Co.*, 55/273; *Schmidt v. Mut. C. & V. F. Ins. Co.*, 55/432. Location of property.—*Benton v. Farm. Mut. F. Ins. Co.*, 102/281.

TITLE AND OWNERSHIP: Effect of failure to disclose nature and extent of interest in the property insured.—*Clay F. & M. Ins. Co. v. Salt & Lumber Co.*, 31/346. See, also, *Ag'l Ins. Co. v. Montague*, 38/548; *Aetna Ins. Co. v. Resh*, 40/241; compare *Farmers' Mut. F. Ins. Co. v. Gargett*, 42/289. A violation of the conditions as to ownership of the property invalidates the policy.—*Miller v. Amazon Ins. Co.*, 46/463. In the absence of a distinct requirement, it is not necessary that the exact state of the title be explained.—*Castner v. Farmers' Mut. F. Ins. Co.*, 46/15. The equitable title in the assured is sufficient.—*Farmers' Ins. Co. v. Fogelman*, 35/481. Title under land contract.—*Hamilton v. Insurance Co.*, 98/535; *Knop v. Insurance Co.*, 101/359. A husband has an insurable interest in real property held under a contract running to himself and wife jointly.—*Miotke v. Insurance Co.*, 113/166. The insurer is not required to inquire into the condition of the title.—*Wierengo v. Insurance Co.*, 98/621. In the provision, "wherever in this policy the word 'insured' occurs, it shall be held to include the legal representative of the insured" contained in the standard insurance policy, the term "legal representative" refers to those who succeed to the insured's legal rights by reason of his death or transfer of the policy.—*Metzger v. Manchester F. Ass. Co.*, 102/334.

POLICY: Except where prevented by the statute of frauds, or some other equivalent prohibition, a policy of insurance may be made or changed by parol; and the fact that a policy is written does not prevent its change by subsequent parol agreement, or its enlargement or continuance.—*Westchester F. Ins. Co. v. Earle*, 33/143; *Roger Williams Ins. Co. v. Carrington*, 43/252, 256. An actual manual delivery of the policy is not necessary to make the contract effectual.—*Home Ins. Co. v. Curtis*, 32/402. Nor is any policy necessary to the validity of the contract.—*Mich. Pipe Co. v. Ins. Co.*, 92/491. See *Lawrence v. Griswold*, 30/410. The acceptance of the policy concludes the bargain with the insurer and excludes any parol promises for the future inconsistent with it.—*Hartford F. Ins. Co. v. Davenport*, 37/609. As to the countersigning of the policy and the waiver of the same.—*Hibernia Ins. Co. v. O'Connor*, 29/241; *Westchester F. Ins. Co. v. Earle*, 33/151. The construction of a policy is for the court.—*Lapeer, etc., Ass'n v. Doyle*, 30/159. The supreme court will not construe an insurance policy or other contract, upon mere stipulations of counsel as to its legal effect.—*Am. Ins. Co. v. Reed*, 40/622. All parts of an insurance policy are to be harmonized and given effect, if it can be consistently done.—*Jackson v. Brit. Am. As. Co.*, 106/50. The person to whom a policy is issued and in whose name it stands is its legal owner.—*Hart. F. Ins. Co. v. Davenport*, 37/609. The assignee of the entire interest in a policy can sue thereon in his own name.—*Watertown Ins. Co. v. G. & B. Sew. Mach. Co.*, 41/131. Separate interests under the same policy may be united by assignment to one person who may sue on it.—*Mercantile Ins. Co. v. Holthaus*, 43/423. There can be no splitting of causes of action on a policy; the party who can enforce the whole of it must sue.—*Hart. F. Ins. Co. v. Davenport*, 37/609. But where each of several persons insured by the same policy have distinct insurable interests, they can enforce their rights in equity, if they cannot at law.—*Mercantile Ins. Co. v. Holthaus*, 43/424. Limitation of action on policy by contract.—*Peoria Ins. Co. v. Hall*, 12/202. Presumption as to where the policy was executed.—*Am. Ins. Co. v. Woodruff*, 34/6; *Am. Ins. Co. v. Cutler*, 36/261. A policy written by an agent upon his own property is not binding until it is approved by the company.—*Zimmerman v. Insurance Co.*, 110/399.

CONDITIONS IN POLICIES: That a policy should become void while the premium note remained due and unpaid, if not paid at maturity, held valid.—*Williams v. Alb. City Ins. Co.*, 19/451. See *Contl. L. Ins. Co. v. Willets*, 24/268. Fire insurance policy made void by violation of conditions.—*Cronin v. Fire Ass'n of Philadelphia*, 123/277; *Vanderlogen v. Manchester Fire Assurance Co.*, 123/291. Construction of condition absolving insurers in case property becomes unoccupied or vacant.—*Aurora F. & M. Ins. Co. v. Kranich*, 36/289. For further construction of the vacancy clause in insurance policies, see *Stupetski v. Insurance Co.*, 43/373; *Hookins Mfg. Co. v. Insurance Co.*, 48/148, 150; *Becker v. Insurance Co.*, 48/610; *Shackelton v. Sun Fire Office*, 55/288; *Bonenfant v. Insurance Co.*, 76/653; *Fritz v. Insurance Co.*, 78/565; *Richards v. Insurance Co.*, 83/508; *Hill v. Insurance Co.*, 99/466. See, also, *Residence F. Ins. Co. v. Hannawold*, 37/103; *Hart. F. Ins. Co. v. Davenport*, 37/609. Temporary absence held not to create vacant property.—*Raymond v. Farmers' Mut. Fire Ins. Co.*, 114/386. Company's liability under vacancy permit represented by the agent to the insured as having been issued by the company and attached to the policy.—*Morgan v. Illinois Ins. Co.*, 130/427. A condition in a fire insurance policy avoiding it, if the manufacturing establishment insured ceases operation for more than ten consecutive days is reasonable and proper.—*Cronin v. Fire Association*, 119/74. Policy avoided by breach of such condition.—*Cronin v. Fire Ass'n*, 127/612. A clause providing for forfeiture of the policy, if assigned without the company's consent, cannot prevent its assignment after the loss.—*Insurance Co. v. Carrington*, 43/252. The insurer is not required to inform the insured of all the conditions and terms of the policy or to read it to him.—*Wierengo v. Am. F. Ins. Co.*, 98/621. There is no impediment to agreements for forfeitures in fire insurance policies, if parties choose to make them.—*Allen v. Insurance Co.*, 106/204. Forfeiture clauses must be explicit.—*Residence F. Ins. Co. v. Hannawold*, 37/103. And must be strictly construed.—*Westchester F. Ins. Co. v. Earle*, 33/143; *Olmstead*

v. Farmers' Mut. F. Ins. Co., 50/200; Lyon v. Trav. Ins. Co., 55/142. Blind and misleading conditions disapproved.—Westchester F. Ins. Co. v. Earle, 33/152. Conditions relative to additional insurance must be strictly complied with.—Security Ins. Co. v. Fay, 22/467. See Cont. Ins. Co. v. Horton, 28/173. As to effect of additional insurance, see Sun Ins. Co. v. Earle, 20/406. Waiver of such conditions.—Westchester F. Ins. Co. v. Earle, 33/143. When company deemed to have notice of prior insurance on property.—Power v. Monitor Insurance Co., 121/364. When the company is estopped to claim that a policy was avoided by additional insurance.—Rauch v. Mut. Fire Ins. Co., 131/281. Breach of condition is not excused by good faith.—Penn. F. Ins. Co. v. Kittle, 39/51. Policy avoided by careless, though not intentionally false statement on oath regarding loss.—Knop v. Insurance Co., 107/323. Recovery allowed notwithstanding outstanding policies in other companies.—Liverpool, etc., Ins. Co. v. Verdier, 35/395; Emery v. Mutual, etc., Ins. Co., 51/469; Kitchen v. Hart. F. Ins. Co., 57/135. A policy conditioned that, "in case of any sale, transfer or change of title in the property insured, such insurance shall be void and cease," is avoided by a conveyance absolute in form, though given merely as security.—West. Mass. Ins. Co. v. Riker, 10/279. Policy avoided by change of interest in property insured.—Excelsior Foundry Co. v. Western Assurance Co., 135/467. Where a deed is executed and recorded, but not delivered, and there is no intention on the part of the grantor of passing the title, it does not pass, and does not constitute a breach of the condition of a policy against any "change of the title or ownership" of the property insured.—Hogadone v. Grange Mut. Fire Ins. Co., 133/339. Removal of insured property with consent of agent and liability of company.—Bennett v. Underwriters' Ass'n, 130/216. A policy of insurance on a steam fire-engine, etc., while located and contained in the fire-engine house "and not elsewhere," does not cover such property while being used at a fire several hundred feet from that building.—Village of L'Anse v. Fire Ass'n of Philadelphia, 119/427. Condition as to use of gasoline.—Smith v. Insurance Co., 107/270. Fire insurance policy avoided for the storing of gasoline.—Boyer v. Grand Rapids Fire Ins. Co., 124/455. Forfeited if kerosene oil is drawn on the premises in any other manner than as specified in the standard form.—Vanderlogen v. Fire Assurance Co., 123/291.

WAIVER: When and how forfeiture clauses are deemed waived and insurers are estopped from insisting upon them.—Hart. Ins. Co. v. Davenport, 37/609; Security Ins. Co. v. Fay, 22/467; Williams v. Alb. City Ins. Co., 19/451; Penn. F. Ins. Co. v. Kittle, 39/51. The conditions of an insurance policy may be waived by the company not only by express agreement, but by conduct which amounts to an estoppel.—Miotke v. Insurance Co., 113/166. The question of waiver is one of intent and is a proper subject of inference from surrounding circumstances.—Hibernia Ins. Co. v. O'Connor, 29/241. Generally a question of fact for the jury.—Chapman v. Colby, 47/46; Dayton v. Monroe, 47/193; Penn. F. Ins. Co. v. Kittle, 39/51. Knowledge of and acquiescence in, violations of conditions in policies operate as a waiver of the same by an insurance company.—Match Co. v. Fire Ins. Co., 122/256. Waiver by the company of right to claim a forfeiture of the policy.—Granger v. Manchester Fire Assurance Co., 119/177. Waiver of conditions as to additional insurance.—Westchester F. Ins. Co. v. Earle, 33/143. The mere knowledge of the company that additional insurance has been obtained without its consent, cannot be deemed a waiver.—Allemania F. Ins. Co. v. Hurd, 37/11. It is waived if the adjusting agent, with full knowledge thereof, calls for proofs of loss and puts the insured to the trouble and expense of making the same, without informing him that the forfeiture will be urged.—Penn. F. Ins. Co. v. Kittle, 39/51. Waiver, of a condition in a fire insurance, that it should be void if additional insurance was obtained without having the fact indorsed upon the policy, is a question for the jury where the evidence is conflicting.—Walter v. Fire Insurance Co., 120/35. Waiver of condition avoiding policy, in case of other insurance procured without written permission.—Kotwicki v. Thuringia Ins. Co., 134/82. A condition in a policy that it shall be void if the insured building "be or become vacant and so remain for 10 days" is not waived by the fact that, at the time an agent of the company consents to an assignment of the policy, he is informed that the building is then unoccupied.—Ranspach v. Teutonia Fire Ins. Co., 109/699. Waiver of condition as to vacancy of premises not established.—Sutherland v. F. & M. Ins. Co., 110/668. Waiver of provision in policy avoiding the same in case of foreclosure proceedings begun.—Cronin v. Fire Association, 119/74. Or provision against incumbering personal property by chattel mortgage.—Rediker v. Insurance Co., 107/224. Waiver of condition of acceptance of risk, as to clearing away logs and brush for 100 feet around the building insured.—Duby v. Mut. Fire Ins. Co., 133/661. As to keeping gunpowder, how and when waived.—Peoria M. & F. Ins. Co. v. Hall, 12/202. When formal proofs of loss are deemed waived.—Match Co. v. Fire Ins. Co., 122/256; Security Insurance Co. v. Fay, 22/467; Hibernia Ins. Co. v. O'Connor, 29/241. Waiver of strict formal proof is waiver also of all precedent requirements.—Id. A denial of liability by the adjuster for the reason that the policy had been cancelled amounts to a waiver of proofs of loss.—Morgan v. Illinois Ins. Co., 130/427. Waiver of requirement as to time of making proofs.—Aurora, etc., Ins. Co. v. Kranich, 56/289. A letter from an insurer to a claimant, asking that the matter be allowed to rest until the adjuster of the company can see the claimant or his attorney, is a waiver of a provision in the policy

limiting the time for furnishing proofs of loss and beginning action.—Turner v. Fidelity & Casualty Co., 112/425. Waiver of defects in proofs of loss.—Mercantile Ins. Co. v. Holthaus, 43/423. A claim of waiver of proofs of loss, based upon verbal statements of the company's agent, cannot be sustained.—Wadhams, Ryan & Reule v. Western Assurance Co., 117/514. An insurance company, by placing its refusal to pay a loss solely upon the ground that the policy had been canceled, waives its right to assert other defenses.—Douville v. Farmers' Mut. F. Ins. Co., 113/158.

RENEWAL OF POLICY: Each renewal is a new contract and is subject to the local laws in force at the time of the renewal.—Brady v. Insurance Co., 11/425. Though amounting to a new contract, it in no way changes the terms and conditions of the original policy, except as they continue it in force, but the rights of the parties are governed by the provisions of the original policy.—Aurora F. & M. Ins. Co. v. Kranich, 36/289. Renewal of canceled policy by agent.—Hart. F. Ins. Co. v. Reynolds, 36/502.

SURRENDER OF POLICY: A surrender of an insurance policy, such as to discharge the insured from liability on a premium note, under an arrangement that, upon such surrender, the note should be delivered up, must be accompanied by a dealing immediately and directly with the company or its agents; a delivery to a stranger, with notice to the company, is not enough.—Am. Ins. Co. v. Woodruff, 34/6.

CANCELLATION OF POLICY: An insurance company cannot cancel a policy, which has been delivered and the premium paid, without notifying the assured and returning or offering to return the unearned premium.—Home Ins. Co. v. Curtis, 32/402; Krause v. Assurance Co., 99/464. Where the same person is at once agent for the insurance company and for the policy holder, the latter is bound by notice to the agent of the cancellation of the policy and by the return or credit of the premium to the agent.—Hart. Fire Ins. Co. v. Reynolds, 36/502. Where a policy is given up for cancellation and a smaller one taken, under fraud and misrepresentation by the agent, it will be re-established if action is seasonably taken.—Tabor v. Mich. Mut. L. Ins. Co., 44/324. Unauthorized cancellation of life insurance policy.—Shields v. Equitable Life Assurance Society, 121/690. Authority of agent to cancel.—Koolstra v. Rockford Ins. Co., 122/626.

REVIVOR OF POLICY: A policy forfeited by breach of condition, cannot be revived by any act of waiver or estoppel, unless done upon full knowledge of the facts.—Security Ins. Co. v. Fay, 22/467. It cannot be revived by anything short of a new contract, on a valid consideration, or such conduct, as by misleading the insured to his prejudice, would operate as an estoppel.—N. Y. Cent. Ins. Co. v. Watson, 23/486. Revivor of life insurance policy by bill in equity.—Heinlein v. Imperial L. Ins. Co., 101/250.

WAGER POLICY: The chief reason for looking to ownership is to prevent wager policies.—Castner v. F. Mut. F. Ins. Co., 46/18. A life insurance policy for the benefit of one who is neither an heir nor a relation of the insured and whose interest is not promoted by the latter's continuing alive, is in the nature of a wager policy and is void as against public policy.—Mut. Ben. Ass'n v. Hoyt, 46/473. A wager policy is a policy upon a risk in which the insured has no interest and is void.—O'Hara v. Carpenter, 23/416-7. Insurance upon a life in which the beneficiary has not an insurable interest is a wager and is void.—Smith v. Pinch, 80/332. See Heinlein v. Insurance Co., 101/250.

PREMIUMS: Where an agent advances the money for the premium to the company and takes the note of the insured, the company cannot dispute its liability on the ground that the premium has not been actually paid.—Home Ins. Co. v. Curtis, 32/402; Ag'l Ins. Co. v. Montague, 38/548. If a company takes a note when a premium falls due and issues renewal receipts therefor, the policy continues in force and the company cannot afterward insist upon the forfeiture as for non-payment.—Mich. Mut. Life Ins. Co. v. Bowes, 42/19; Tabor v. Mich. Mut. L. Ins. Co., 44/324. Risk is essential to the right to recover premiums.—Am. Ins. Co. v. Stoy, 41/385.

PREMIUM NOTES: No recovery can be had on an installment premium note payable in advance, where it is provided in the policy that in case of failure to pay an installment when due, the policy shall be void until such payment is made.—Yost v. Am. Ins. Co., 39/531.

UNEARNED PREMIUM: Must be returned if policy is canceled.—Home Ins. Co. v. Curtis, 32/402; Am. Ins. Co. v. Stoy, 41/385. But in case of loss under an absolute insurance for a term of years, the company need not return anything as unearned premium.—Am. Ins. Co. v. Stoy, 41/385.

INSURANCE AGENT: How far his statements, representations and advice to the applicant bind the company.—Aetna, etc., Co. v. Olmstead, 21/246; Westchester F. Ins. Co. v. Earle, 33/143. How the company is affected by its agent's knowledge.—Peoria M. & F. Ins. Co. v. Hall, 12/202; Niagara F. Ins. Co. v. DeGraff, 12/124; Aetna, etc., Co. v. Olmstead, 21/246; N. A. F. Ins. Co. v. Throop, 22/146; Security Ins. Co. v. Fay, 22/467; Van Buren v. St. Joseph, etc., Co., 28/398; Sun Ins. Co. v. Earle, 22/406; Mich. St. Ins. Co. v. Lewis, 30/41; Westchester Ins. Co. v. Earle, 33/143. Notice to a clerk in the office of an insurance agent, as to matters affecting a risk, is notice to the agent.—Pollock v. German Fire Ins. Co., 127/460. Effect of the knowledge of the secretary of a mutual association.—Daily v. Preferred Mas. Mut. A. Ass'n, 102/289. Effect of medical examiner's writing out answers upon his own knowledge rather than from the applicant's answers.—Pudritzsky v. Knights of Honor, 76/428. How far agent

represents the insurers.—Aetna, etc., Co. v. Olmstead, 21/246. See Westchester Ins. Co. v. Earle, 33/143; McGraw v. Germania F. Ins. Co., 54/145; Miller v. Insurance Co., 101/49. So far as he acts as an insurance broker he is agent for the insured and not for the insurer.—Hartford F. Ins. Co. v. Reynolds, 36/502. The local agent of an accident insurance company, to whom a policy is sent to be delivered to the applicant, is not the agent of the insured in receiving the policy, so as to effect a valid contract of insurance inconsistent with the terms of the application.—Robinson v. U. S. Benevolent Society, 132/695. A person aiding in transacting the business of a foreign insurance company deemed to be its agent.—Pollock v. German Fire Ins. Co., 127/460; Bliss v. Potomac Fire Ins. Co., 134/212. Powers of general agents of insurance companies.—Gore v. Canada Life Ass. Co., 119/136. Authority of fire insurance agent to cancel policy.—Kooistra v. Rockford Ins. Co., 122/626. When the solicitor of life insurance incurs no personal liability for the return of premium collected.—Bleau v. Wright, 110/183. An agent's unauthorized acts are not binding upon the company.—Security Ins. Co. v. Fay, 22/467. See Reynolds v. Cont. Life Ins. Co., 36/131; Hartford F. Ins. Co. v. Reynolds, 36/502; Mallory v. Met. L. Ins. Co., 97/416. The fact of a person's being a company's local insurance agent implies nothing more than authority to insure in the mode allowed by the company's charter, and to take such risks as the policies of the company in common use by its agents warrants.—Reynolds v. Cont. Ins. Co., 36/143-4. A sub-agent, employed by the agent of an insurance company to solicit applications for insurance, collect premiums and deliver policies, has no general authority, by virtue of such employment, to give credit or receive anything but cash in payment.—Cont. L. S. Ins. Co. v. Willets, 24/268.

INSURANCE FOR MORTGAGEE: A person who purchases property with full knowledge that it is mortgaged and is to be kept insured for the benefit of the mortgagee, as additional security, is bound by such arrangement.—Miller v. Aldrich, 31/408. Insurance by the mortgagee when the mortgagor fails to insure as agreed.—Hopkins Mfg. Co. v. Insurance Co., 48/148. When the policy vests the right of action in the owner, whatever invalidates the policy as to him must of necessity defeat any right of the mortgagee derived through him.—Van Buren v. St. Joseph, etc., Ins. Co., 28/398. Policy purporting to be taken for the use and benefit of another.—See Clay F. & M. Ins. Co. v. Huron Salt & Lumber Co., 31/346. He who can enforce the whole of it must sue on the policy; there can be no splitting of causes of action, so as to permit a mortgagee to maintain an action for the loss upon part of the property, made payable to him.—Hart. F. Ins. Co. v. Davenport, 37/600. An administrator can sue on an insurance policy for the use and benefit of a mortgagee to whom the loss is made payable.—Westchester Fire Ins. Co. v. Dodge, 44/420. A debtor may insure his property for the benefit of his creditor if the insured consents to the arrangement.—Gulterman v. German-American Ins. Co., 111/626.

LOSS: A policy of insurance against loss by fire includes every loss which necessarily follows from the fire, to the amount of the actual injury, whenever that injury arises directly and immediately from the peril or necessarily from incidental and surrounding circumstances, the operation and influence of which could not be avoided.—Brady v. N. W. Ins. Co., 11/445. Insurance covering "damage by fire" extends to loss occasioned by water used in case of fire to prevent the destruction of the insured property.—John Davis & Co. v. Insurance Co., 115/382. Liability of fire insurance company for explosion and falling walls.—John Davis & Co. v. Insurance Co., 115/382. Insurance in case of fall of building.—N. & M. Friedman Co. v. Atlas Assurance Co., 133/212. Notice of loss may be given to the local agent of the company by any one of the parties interested in the insurance and it will enure to the benefit of the others. The notice is distinct from the proof of loss and need not be in writing.—Watertown Ins. Co. v. G. & B. Sew. Mach. Co., 41/136. False statements in proofs of loss.—Hanover F. Ins. Co. v. Mannasson, 20/316. Immaterial misstatement in the proof of loss.—Wickling v. City Mut. F. Ins. Co., 118/640. The burden of showing that the loss was occasioned by the peril insured against is upon the plaintiff.—John Davis & Co. v. Insurance Co., 115/382. If proofs are made within a reasonable time, the claim cannot be defeated by the company's withholding its decision until the time for bringing suit has elapsed.—Westchester F. Ins. Co. v. Dodge, 44/420. A claim for loss does not mature until the company has decided whether it will rebuild, where the right to do so is reserved.—Westchester Ins. Co. v. Dodge, 44/420. Averaging loss and contribution, in case of other insurance on the property.—Liverpool, etc., Ins. Co. v. Verdler, 33/138; 35/395; Penn. Ins. Co. v. Kittle, 39/51. Failure to furnish proofs of loss within 60 days will not prevent recovery in a suit commenced within 12 months and after proofs are furnished.—Rynalski v. Ins. Co. of Pennsylvania, 96/395, citing Steele v. Insurance Co., 93/81. After proofs, the company should, within a reasonable time, manifest its disagreement with the amount claimed.—Brock v. Insurance Co., 102/538. Where a fire insurance policy provides that no suit or action thereon for the recovery of any claim shall be sustainable, unless commenced within 12 months next after the fire, a suit cannot be maintained, unless it is in fact commenced within the year specified in the policy.—Peck v. Germ. F. Ins. Co., 102/53; Lentz v. Teutonia F. Ins. Co., 96/445; Law v. N. E. Mut. Ac. Ass'n, 94/266; Steele v. Germ. Ins. Co., 93/81. Premature action on insurance claim.—Putze v. Mut. Fire Ins. Co., 132/670. Equity jurisdiction

in controversies over the ownership of insurance money.—*Convis v. Mutual Fire Ins. Co.*, 127/616.

PLEADINGS: Setting forth application in declaration, when necessary.—*Throop v. N. A. F. Ins. Co.*, 19/423. Variance in allegation of place where contract was made.—*Clay, etc., Ins. Co. v. Huron, etc. Mfg. Co.*, 31/346. Notice of defense.—*Home Ins. Co. v. Curtis*, 32/402; *Residence F. Ins. Co. v. Hannawold*, 37/103; *Farmers' Mut. F. Ins. Co. v. Crampton*, 43/421. See *Farmers' Mut. F. Ins. Co. v. Gargett*, 42/289. An insurance company cannot avail itself, in an action on a policy, of a stipulation therein, which was intended to avoid its promise by way of defeasance or excuse, unless it has given notice of such defense.—*Cronin v. Fire Association*, 112/106.

ARBITRATION: Arbitration of amount of loss by agreement of parties.—*Kersey v. Phoenix Ins. Co.*, 135/10. The authority of arbitrators is limited to an adjustment of the loss and questions of fraud do not come before them.—*Kearney v. Mut. Fire Ins. Co.*, 126/246. Practice in suit in equity to set aside arbitrators' award under fire insurance policy.—*Michels v. Underwriters' Ass'n*, 129/417.

MARINE INSURANCE: Condition of vessel an essential element in marine insurance.—*Gauntlett v. Sea Ins. Co.*, 127/504. A contract of marine insurance cannot be effected, or negotiated, after the loss of the property to be insured, if known to the owner.—*Id.*

(176) § 7225. SEC. 2. Any company organized under this act shall have power to effect reinsurance of any risks taken by them respectively.

Power to reinsure.

(177) § 7226. SEC. 3. Such persons shall file in the office of the secretary of state [commissioner of insurance], a declaration, signed by them, expressing their intention to form a company for the purpose of transacting the business of insurance, as expressed in the first section of this act, which declaration shall also comprise a copy of the articles of association proposed to be adopted by them, and shall publish a notice of such intention, once in each week, for at least six weeks, in a public newspaper in the county in which such insurance company is proposed to be located.

Declaration of intention.

"Commissioner of insurance."—See note to section 14 of this compilation.

(178) § 7227. SEC. 4. The articles of association shall set forth the name of the company; the place where the principal office for the transaction of its business shall be located; the mode and manner in which the corporate powers granted by this act are to be exercised; the mode and manner of electing trustees or directors, a majority of whom shall be citizens of this state; and of filling vacancies (but each director of a stock company shall be the owner in his own right of at least five hundred dollars' worth of the stock of such company, at its par value); the period for the commencement and termination of its fiscal year, and the amount of capital to be employed in the transaction of its business; and the secretary of state [commissioner of insurance] shall have the right to reject any name or title of any company applied for, when he shall deem the name too similar to one already appropriated, or likely to mislead the public in any respect.

Articles, contents of.

"Commissioner of insurance."—See note to section 14 of this compilation.

(179) § 7228. SEC. 5. No company formed under this act shall, directly or indirectly, deal or trade in buying or selling any goods, wares, merchandise or other commodities whatever, excepting such articles as may have been insured

Prohibition relative to dealing in goods, etc.

	by such company, and are claimed to be damaged by fire or water.
Stock companies, capital of.	(180) § 7229. SEC. 6. The capital stock of any stock company, organized under this act, shall not be less than one hundred thousand dollars, in shares of not less than twenty-five or more than fifty dollars each, which capital stock may be increased by a vote of two thirds of the stockholders to not more than one million dollars; nor shall any company hereafter organized on the plan of mutual insurance, commence business in this state until agreements have been entered into for insurance with at least two hundred applicants, the premiums upon which shall amount to not less than twenty-five thousand dollars, of which at least five thousand dollars shall have been paid in actual cash, and for the remainder of which notes of solvent parties, founded upon actual and bona fide application for insurance, shall have been received.
Mutual companies, when may commence business.	No one of the notes received, as aforesaid, shall amount to more than five hundred dollars; and no two thereof shall be given for the same risk, or made by the same person or firm, except where the whole amount of such notes does not exceed the sum of five hundred dollars; nor shall any note be regarded or represented as capital stock unless a policy to be issued upon the same within thirty days after the organization of the company taking the same, upon a risk which
Notes, amount of each, limited.	shall be for no shorter period than twelve months. Each of said notes shall be payable, in whole or in part, at any time when the directors shall deem the same requisite for the payment of losses by fire, and such incidental expenses as may be necessary for transacting the business of said company; and no note shall be accepted as part of such capital stock, unless the same shall be accompanied by a certificate of the clerk of the circuit court of the county in which the person executing such note shall reside, that the person making the same is, in his opinion, pecuniarily good, and responsible for the same in property not exempt from execution by the laws of this state; and no such note shall be surrendered while the policy for which it was given continues in force. But no company organized on the plan of mutual insurance, and insuring against any other risks mentioned in section one of this act, shall hereafter do any business, or take any risks, or make any insurance, in any more than two counties in this state, which counties shall be contiguous, and which counties, in the case of companies hereafter organized, shall be named and set forth in their articles of association, and in the statement required by section three to be filed in the office of the secretary of state [commissioner of insurance]. No fire insurance company organized under this act, or transacting business in this state, shall expose itself to any loss on any one fire or inland navigation risk, or hazard, to an amount exceeding ten per cent of its paid-up capital, nor shall any fire insurance company organized under the laws, or by authority of,
When payable.	
Certificates of responsibility of maker.	
Mutuals limited to three counties.	
Limit of any one risk.	

any foreign government, expose itself to any loss on any one fire or inland navigation risk, or hazard, to an amount exceeding ten per cent of its deposited capital in the United States.

"Commissioner of Insurance."—See note to section 14 of this compilation.

(181) § 7230. SEC. 7. It shall and may be lawful for the individuals associated for the purpose of organizing any company under this act, after having published the notice and filed their declaration and copy of their articles of association as required by the third section of this act, and also on filing in the office of the secretary of state [commissioner of insurance] proof of such publication, by the affidavit of the publisher of such newspaper, his foreman or clerk, to open books for subscription to the capital stock of the company so intended to be organized, and to keep the same open until the full amount specified in the articles of association is subscribed; or, in case the business of such company is proposed to be conducted on the plan of mutual insurance, then to open books to receive propositions, and enter into agreements in the manner and to the extent specified in the sixth section of this act.

Books of subscription.

"Commissioner of Insurance."—See note to section 14 of this compilation.

(182) § 7231. SEC. 8. It shall be lawful for any fire insurance company organized under this act or incorporated under any law of this state, to invest its capital and the funds accumulated in the course of its business, or any part thereof:

How may invest funds.

(a) In bonds or notes secured by mortgage lien upon unincumbered real estate worth at least double the amount loaned;

In bonds or notes secured.

(b) First, In bonds of the United States, or any state or territory of the United States: Provided, That such state or territory has not in the ten years preceding the time of such investment repudiated its debt and failed to pay the same, or the interest due thereon, or upon any part of such debt; or,

In U. S. bonds, etc.
Proviso.

Second, In the public debt or bonds of any city, county, township, village or school district of any state or territory in the United States, which shall have been authorized by the legislature of such state or territory: Provided, That such state or municipality has not, in the ten years preceding the time of such investment, repudiated its debt and failed to pay the same or the interest due thereon, or upon any part of such debt: And provided further, That the net indebtedness of said city, county, township, village or school district shall not exceed five per cent of the assessed valuation of all the real estate of said city, county, township, village or school district, said valuation to be on the basis of the last preceding equalization of the state board for coun-

City, township, and school bonds, etc.
Proviso.

Further proviso, net indebtedness.

Term defined. ties, and the proportionate amount thereof. The term net indebtedness in this section shall be construed to denote the indebtedness of any city, county, township, village or school district, omitting debt created for supplying the inhabitants with water and deducting the amount of sinking funds available for the payment of such indebtedness;

First mortgage railroad bonds. Third, In the legally authorized first mortgage bonds of any steam railroad corporation organized under the laws

Proviso, dividends.

of any state of the United States: Provided, That such company has for five years prior to the time of making such investment by said insurance company, paid annually dividends equal to not less than four per cent on its entire capital stock and has not during said period defaulted in the payment of the matured principal or interest of any debts incurred by it and secured by mortgage or trust deed upon its property or any part thereof, or in the payment of any part of the matured principal or interest of any bonds guaranteed or assumed by it; or,

First mortgage bonds of leased lines.

Fourth, In the first mortgage bonds of railroad companies whose lines are leased or operated or controlled by any railroad company specified in paragraph three, subdivision b of this section, if said bonds be guaranteed both as to principal and interest by the railroad company to which said lines are leased or by which they are operated or controlled;

Mortgage re-funding bonds of steam railroads.

Fifth, In the legally authorized mortgage bonds of any steam railroad incorporated under the laws of any state of the United States, which shall have been issued for the purpose of retiring all prior mortgage indebtedness on so much of the property of such company as is covered by the mortgage securing such issue of bonds, and further providing for additions, extensions or improvements: Provided, That such company has for three years prior to the time of making such investment by said insurance company, paid annually dividends equal to not less than four per cent on its entire capital stock, which capital stock shall equal or exceed in amount one-third of the par value of all its bonded indebtedness, and has not during the same period defaulted in the payment of the matured principal or interest of any debts incurred by it and secured by mortgage or trust deed upon its property or any part thereof, or in the payment of any part of the matured principal or interest upon a bond guaranteed or assumed by it: Provided further, Said issues of bonds shall have been approved by the securities commission hereinafter referred to;

Further proviso, approval of issue.

First mortgage bonds of electric railroad, etc.

Proviso, dividends.

Sixth, In the legally authorized first mortgage bonds of any electric railroad, street railway, gas or electric light or power company, organized under the laws of the state of Michigan: Provided, That such company has for five years prior to the time of making such investment by said insurance company, paid annually dividends equal to not less than four per cent on its entire capital stock, and has not during the same period defaulted in the payment of the

matured principal or interest of any debts incurred by it and secured by mortgage or trust deed upon its property or any part thereof, or in the payment of any part of the matured principal or interest of any bonds guaranteed or assumed by it; or in the first mortgage bonds of any such company which has been in operation less than five years: Provided further, That the cost of construction and equipment of the plant of such company shall exceed by at least fifty per cent the amount of the entire bonded indebtedness of such company, and the said plant and equipment shall be free from all other liens and encumbrances, and the said company shall have earned during the period it has been in operation, more than enough to pay all interest accrued on all said bonds and not less than four per cent per annum dividends upon its entire capital stock outstanding: Provided further, Said issues of bonds shall have been approved by the securities commission hereinafter referred to;

Further proviso.

Further proviso, approval of issue.

Seventh, In the legally authorized first mortgage bonds of steamship companies: Provided, That such mortgages shall be upon steel steamship or steamships for the carriage of freight or package freight and passengers combined, upon the Great Lakes and connecting waters, of at least five thousand tons carrying capacity each: Provided further, Such bonds are issued at the time of the completion and enrollment of such steamship or steamships, or within one year thereafter: Provided further, That by the express terms of said mortgage at least ten per cent of the total issue of said bonds shall be retired annually, beginning within two years from the date of said bonds, and that the mortgage liability against said property shall not exceed one-half of its actual cost: Provided further, That the trustee of such mortgage shall be required to protect the lien of said mortgage by attending to the recording thereof and by causing property covered by said mortgage to be insured against all risks on vessel property ordinarily covered by such insurance, including marine risks and disasters, general and particular average, collision liability, protection and indemnity insurance and insurance against liability for injuries to persons, in insurance companies and under forms of policies approved by the trustee, for an amount equal to the full insurable value of such steamship, such insurance to be made with loss payable to said trustee and policies deposited with it: Provided further, That by the terms of such mortgage, the mortgagor shall not suffer such steamship to become indebted in an amount exceeding five per cent of the original amount of the principal of said mortgage at any time, and that the failure of the mortgagor to forthwith procure the release of such steamship or steamships from mechanics', laborers', admiralty, statutory or other liens, claims or charges against such steamship shall constitute a default in the provisions of such mortgage: Provided further, That such bonds shall

First mortgage bonds, steamship companies. Proviso.

Further proviso.

Further proviso.

Further proviso.

Further proviso.

Further proviso.

	have been approved by the securities commission hereinafter referred to;
Negotiable paper.	Eighth, Said insurance companies may loan the same upon negotiable paper, or other evidences of indebtedness, secured by any of the above mentioned classes of security; or,
Negotiable notes of banks.	Ninth, Upon negotiable notes secured by pledge of stock of national or state banks which have a surplus of twenty-five per cent more than the capital: Provided, That such loan shall not exceed eighty-five per cent of the market value of the stock; and to change and reinvest the same from time to time as occasion may require: Provided further, That the total amount loaned on bank security collateral shall not exceed fifteen per cent of the capital and surplus of the insurance company;
Proviso.	
Further proviso.	
Securities commission, act creating.	Tenth, The securities commission referred to in subdivision b, paragraphs five, six and seven, shall be the securities commission created by section sixty-seven, act number two hundred sixty-two of the public acts of nineteen hundred five, being "An act to amend sections twenty-seven and fifty-two of act number two hundred five of the public acts of eighteen hundred eighty-seven, entitled 'An act to revise the laws authorizing the business of banking and to establish a banking department for the supervision of such business,' as amended, being compiler's sections six thousand one hundred sixteen and six thousand one hundred forty-one respectively, of the compiled laws of eighteen hundred ninety-seven, as amended by act number two hundred sixty-five of the public acts of eighteen hundred ninety-nine, and by adding a new section thereto to stand as sixty-seven of said act;" approved June sixteen, nineteen hundred five: Provided, That not more than one-fourth of the capital and surplus of said insurance company shall be loaned on or invested in the bonds of any one steam railroad, and not more than one-tenth of the capital and surplus shall be loaned on or invested in the bonds of any one railroad corporation described in paragraphs two and three of subdivision b, and not more than one-twentieth of the capital and surplus shall be loaned on or invested in the bonds of any one company or corporation described in paragraphs five, six and seven of subdivision b; and not more than one-tenth of the capital and surplus of the insurance company shall be loaned to any one person, corporation or firm on the collateral pledges allowed by paragraph b of this section.
Proviso, amount may invest, etc.	

Am. 1899, Act 73; 1901, Act 114; 1905, Act 155; 1907, Act 184.

Real estate, restriction as to.

(183) § 7232. SEC. 9. No company formed under this act shall purchase or hold any real estate, except:

First, Such as shall be necessary for its immediate accommodation in transacting business; or,

Second, Such as shall have been conveyed or mortgaged to the company in good faith, by way of security for debts; or,

Third, Such as shall have been conveyed to the company in satisfaction for debts; or,

Fourth, Such as shall have been purchased at sales, upon judgments, decrees, or mortgages in favor of such company, or held or owned by it. And all real estate obtained by virtue of any provisions of this section, except that mentioned in the first subdivision, shall be sold or disposed of within five years after the title has been perfected in such company, unless the company shall procure a certificate from the secretary of state [commissioner of insurance] that the interest of said company will materially suffer by forced sale, in which event the sale may be postponed for such period as the said secretary of state [commissioner of insurance] shall direct in said certificate, not to exceed ten years in all.

"Commissioner of insurance."—See note to section 14 of this compilation.

(184) § 7233. SEC. 10. The articles of association, and proof of publication herein required to be filed by every such company, shall be examined by the attorney general, and if found conformable to this act, and not inconsistent with the constitution and laws of this state, shall be certified by him to the secretary of state [commissioner of insurance], who shall thereupon make an examination, or cause one to be made by some disinterested person officially appointed by him for that purpose; and if it shall be found (if the examination be made by other than the secretary of state [commissioner of insurance], then the finding shall be certified under oath) that the capital herein required of the company named, according to the nature of the business proposed to be transacted by such company has been paid in, and that it is possessed of such securities as is required by the eighth section of this act, then he shall so certify; and if the examination be made by other than the secretary of state [commissioner of insurance], then the finding shall be certified under oath, or if it is proposed to be a mutual insurance company, that it has received and is in actual possession of the capital, premiums, or bona fide engagements of insurance or other securities, as the case may be, to the extent and value required by the sixth section of this act. The name and residence of the maker of each premium note forming part of the capital of any such proposed mutual insurance company, and the amount of such note, shall be returned to the secretary of state [commissioner of insurance]. The corporators or officers of any such company or proposed company, contemplated by this act, shall be required to certify under oath to the secretary of state [commissioner of insurance] that the capital exhibited to the person making the examination directed in this section, was bona fide property of the company so examined. Such certificates shall be filed in the office of the said secretary of state [commissioner of insurance], who shall thereupon deliver to such company a certified copy of the articles of association, and of said certifi-

Attorney
general to
examine
articles of
association.

Commissioner
to examine
company.

Authority to
commence
business.

cates, which, on being filed in the office of the clerk of the county where the company is to be located, shall be their authority to commence business and issue policies; and such certified copy of the articles of association, and of said certificates, may be used in evidence for or against said company, with the same effect as the originals.

"Commissioner of Insurance."—See note to section 14 of this compilation. This section applies to domestic corporations and prescribes what shall be "their authority to commence business and issue policies."—*Seamans v. Temple Co.*, 105 / 403. It is the policy of this state to limit the business of insurance to such corporations, domestic and foreign, as shall be authorized by the commissioner of insurance to do business, after compliance with certain regulations and conditions prescribed by law.—Id.

by-laws. (185) § 7234. SEC. 11. The corporators, or the trustees or directors, as the case may be, of any company organized under this act, shall have power to make such by-laws, not inconsistent with their articles of association or with the constitution or laws of this state, as may be deemed necessary for the government of its officers and the conduct of its affairs, and the same, when necessary, to alter and amend; and they and their successors may have a common seal, and may change and alter the same at their pleasure.

seal. (186) § 7235. SEC. 12. It shall not be lawful for the directors, trustees, or managers of any fire insurance company to make any dividend, except from the surplus profits arising from their business; and in estimating such profits, there shall be reserved therefrom a sum equal to the whole amount of premiums on unexpired risks and policies, which are hereby declared to be unearned premiums;* and also there shall be reserved all sums due the corporation on bonds and mortgages, bonds, stocks, and book accounts, of which no part of the principal or the interest thereon has been paid during the last year, and for which foreclosure or suit has not been commenced for collection, or which, after judgment obtained thereon, shall have remained more than two years unsatisfied, and on which interest shall not have been paid, and also there shall be reserved all interest due or accrued and remaining unpaid: Provided always, That any company may declare dividends not exceeding ten per cent on its capital stock, in any one year, that shall have accumulated and be in possession of a fund, in addition to the amount of its capital stock, and of such dividend, and all outstanding liabilities, equal to one-half of the amount of all premiums on risks not terminated at the time of making such dividend. Any dividend made contrary to these provisions, shall subject the company making the same to a forfeiture of its corporate rights, and each stockholder receiving it to a liability to the creditors of such company, to the extent of the dividend received, in addition to the other penalties and punishments in such case made and provided.

forfeiture of charter. (187) § 7236. SEC. 13. All notes deposited with any mutual insurance company at the time of its organization,

*See section 219 of this compilation.

as provided in section six, shall remain as security for all losses and claims until the accumulation of the profits, invested as required by the eighth section of this act, shall equal the amount of cash capital required to be possessed by stock companies organized under this act; but any note which may have been deposited with any mutual insurance company subsequent to its organization, in addition to the cash premium on any insurance effected with such company, may, at the expiration of the time of such insurance, be relinquished and given up to the maker thereof, or his representative, upon his paying his proportion of all losses and expenses which may have accrued thereon during such term; and all such premium notes shall be a lien upon the premises insured to the amount of principal and interest due thereon. The directors or trustees of any such company shall have the right to determine the amount of the note to be given in addition to the cash premium by any person insured in such company; but in no case shall the note be more than five times the whole amount of the cash premium. And every person effecting insurance in any mutual company, and also their heirs, executors, administrators and assigns, continuing to be so insured, shall thereby become members of said corporation during the period of insurance, and shall be bound to pay for losses and such necessary expenses as aforesaid, accruing in and to said company, in proportion to the amount of his deposit note or notes. The directors shall, after receiving notice of any loss or damage by fire sustained by any member, and ascertaining the same, or after the rendition of any judgment against said company for loss or damage, settle and determine the sums to be paid by the several members thereof, as their respective portion of such loss, and publish the same in such manner as they shall see fit, or as the by-laws shall have prescribed; and the sum to be paid by each member shall always be in proportion to the original amount of his deposit note or notes, and shall be paid to the officers of the company within thirty days next after the publication of said notice. And if any member shall, for the space of thirty days after the publication of said notice, and after personal demand for payment shall have been made, neglect or refuse to pay the sum assessed upon him as his proportion of any loss, as aforesaid, in such case the directors may sue for and recover the whole amount of his deposit note or notes, with costs of suit, but execution shall only issue for assessments and costs as they accrue and every such execution shall be accompanied by a list of the losses for which the assessment is made. If the whole amount of deposit notes shall be insufficient to pay the loss occasioned by any fire or fires, in such case the sufferers insured by the said company shall receive, towards making good their respective losses, a proportional share of the whole amount of said notes, according to the sums by them respectively insured; but no member shall ever be required to pay for any

Amount of same.

Persons insuring in mutual companies thereby become members.

Assessments on.

Suit to recover.

When note is insufficient to pay loss.

	loss occasioned by fire, more than the whole amount of his deposit note.
Mutual and stock company to be so designated.	(188) § 7237. SEC. 14. Every insurance company hereafter organized under this act shall, if it be a mutual company, embody the word "mutual" in its title, which shall appear on the first page of every policy and renewal receipt; and every company doing business as a cash stock company shall, upon the face of its policy, in some suitable manner, express that such policy is a stock policy.
Suits at law.	(189) § 7238. SEC. 15. Suits at law may be maintained by any corporation formed under this act, against any of its members or stockholders, for any cause relating to the business of such corporation; also, suits at law may be prosecuted and maintained by any member or stockholder against such corporation for any losses which may have accrued, if payment is withheld more than sixty days after such losses may have become due.
Corporators liable for all debts.	(190) § 7239. SEC. 16. The trustees and corporators of any company organized under this act, shall be jointly and severally liable for all debts or responsibilities of such company, until the whole amount of the capital of such company shall have been paid in and a certificate thereof recorded, as hereinbefore provided. Notes taken in advance of premiums under this act, are not to be considered debts of the company in determining whether a company is insolvent, but are to be regarded as assets of the company.
When notes to be regarded as assets.	
Capital stock, how increased.	(191) § 7240. SEC. 17. Any existing fire insurance company, and any company formed under this law, may at any time increase the amount of its capital stock, after notice given once a week for six weeks in a newspaper published in the county where such company is located, of such intentions, with the written consent of three-fourths, in amount, of its stockholders, unless otherwise provided in its articles of association; or if a mutual company, with the unanimous consent of its trustees, unless otherwise provided in its articles of association, by altering or amending such articles of association in this respect, and filing a copy thereof, so amended, together with a declaration under its corporate seal, if it have any, signed by its president and directors, of their desire so to do, with such written consent of three-fourths, in amount, of its stockholders, or the unanimous consent of the trustees, as aforesaid, to such increase, in the office of the secretary of state [commissioner of insurance], and upon the same proceedings being had as are required by the tenth section of this act.
Companies organized under act of 1859.	(192) § 7241. SEC. 18. Such companies as may have been organized under the "Act to provide for the incorporation of insurance companies, and defining their powers and duties," approved February 15, 1859, and the acts amendatory thereof, are hereby brought under all the provisions of this act, except that their capitals may continue of the amounts named in their respective articles of association dur-

ing the existing term thereof, and except as provided in section thirty-seven of this act.

The act referred to has long since been repealed.

(193) § 7242. SEC. 19. All companies organized under this act shall be deemed and taken to be bodies corporate and politic, in fact and in name, and shall be subject to all the provisions of the compiled laws in relation to corporations, so far as the same are applicable. Companies deemed bodies corporate.

(194) § 7243. SEC. 20. It shall be the duty of the president, or vice president and secretary of each stock company organized under this act, or under any law of this state, annually, on the first day of January, or within one month thereafter, to prepare, under their own oath, and deposit in the office of the secretary of state [commissioner of insurance], a statement of the condition of such company on the thirty-first day of December then next preceding, exhibiting the following facts and items, in the following form, namely: Annual statements of stock companies.

First, The amount of the capital stock of the company;

Second, The property or assets held by the company, specifying—

1. The value, as nearly as may be, of the real estate held by such company;

2. The amount of cash on hand and deposited in banks to the credit of the company, specifying in what banks the same are deposited;

3. The amount of cash in the hands of agents and in course of transmission;

4. The amount of loans secured by bonds, and mortgages constituting the first lien on real estate, on which there shall be less than one year's interest due or owing;

5. The amount of loans on which interest shall not have been paid within one year previous to such statement;

6. The amount due the company on which judgments have been obtained;

7. The amount of bonds of this state, of the United States, and of any other bonds owned by the company, specifying the amount, number of, and par and market value of each kind;

8. The amount of bonds held thereby as collateral security for loans, with the amount loaned on each kind, its par value and the market value;

9. The amount of accrued interest not due;

10. The amount of interest actually due and unpaid;

11. Amount due from agents;

12. The amount due for premiums;

13. The amount of all other loans and securities;

14. The amount of all other property and investments of the company.

Third, The liabilities of such company, specifying—

1. The amount of losses due and yet unpaid;

2. The amount of claims for losses resisted by the company;

3. The amount of losses incurred during the year, including those claimed and not yet due, and of those reported to the company, upon which no action has been taken;

4. The amount of dividends declared and due, and remaining unpaid;

5. The amount of dividends, either cash or scrip, declared but not yet due;

6. The amount of money borrowed, and security given for the payment thereof;

7. The amount of unearned premiums;

8. The amount of all other existing claims against the company.

Fourth, The income of the company during the preceding year, specifying—

1. The amount of cash premiums [received] and whether the same shall have been received for fire or marine insurance, and the amount of each class;

2. The amount of interest money received;

3. The amount of income received from other sources.

Fifth, The expenditures during the preceding year, specifying—

1. The amount of losses paid during the year, stating how much of the same accrued prior and how much subsequent to the date of the preceding statement, and the amount at which such losses were estimated in such preceding statement;

2. The amount of dividends paid during the year;

3. The amount of expenses paid during the year, including commissions and fees to agents and officers of the company;

4. The amount paid in taxes;

5. The amount of all other payments and expenditures.

If it be a mutual company, such report shall state and show—

1. The whole number of members belonging thereto;

2. The number of new members that have been added thereto during the year;

3. The amount of property insured during the year, and the whole amount then at risk;

4. The amount of premium or deposit notes taken during the year, and the whole amount of such notes then in force and held by the company;

5. The amount of cash premiums received during the year, and the total amount of such premiums then belonging to the company, and what amount of the same is in actual cash on hand;

6. The amount of assessments levied upon the members during the year;

7. The rate per cent of such assessments on the property insured, and the rate per cent of such assessments on the premium or deposit notes, or other obligations upon which the assessments are made;

8. The amount collected and paid in on assessments made during the year, and what amount has been collected on as-

assessments levied prior to that year, and the gross amount of assessments then outstanding and not canceled by the board of directors, the gross amount reassessed for assessments not paid;

9. The amount of losses paid during the year;

10. The amount of salary and fees paid to each officer and director, and to whom paid;

11. The items and amount of all other expenses paid during the year;

12. The amount of all claims for losses, and other debts existing against the company, showing what amount of claims and losses is then due and payable, what amount has not matured according to the terms of the contract, what amount is resisted for any cause, of [or] for which the company do not consider themselves legally liable. The statement herein provided for, shall be in lieu of any or all statements now required by any existing law.

(195) § 7244. SEC. 21. The commissioner of insurance is hereby authorized and empowered to address any inquiries to any insurance company, or the secretary thereof, in relation to its doings or condition, or any other matter connected with its transactions; and it shall be the duty of any company so addressed, to promptly reply in writing to any such inquiries. Every fire insurance company organized under any law of this state, failing to make and deposit such statements, or to reply to any inquiry of the said commission of insurance, shall be subject to the penalty of five hundred dollars, and an additional five hundred dollars for every month that such company shall continue thereafter to transact any business of insurance. Every insurance company organized without this state, and doing business herein, failing to make and deposit such statements, or to make satisfactory replies to such inquiries, as may relate to its manner of doing business, or to its assets, pecuniary responsibility, or to other matters connected with or relating to its business transactions, shall be subject to like penalties, and to a revocation of its authority to do business in this state. The said commissioner of insurance shall have power to examine the form of policy contract proposed to be issued by any company, association or corporation applying to be permitted to transact the business of insurance in this state, and may refuse to admit any company to this state or to renew the annual authority of any company previously admitted, whenever the form of policy contract issued or proposed to be issued does not permit the cancellation of the same at the request of the insured on equitable terms.

Commissioner of insurance may address inquiries to companies, etc.

Penalty for false statement, etc.

Penalty as to foreign companies.

Power of commissioner as to policy contract of companies.

It is within the power of the legislature to provide for an examination into the affairs of insurance companies doing business in this state.—*People v. State Ins. Co.*, 19/392. As to revocation of license by commissioner, see notes to section 24 of this compilation.

(196) § 7245. SEC. 22. It shall be the duty of the secretary of state [commissioner of insurance] to cause to be pre-

Blanks for statements.

Report of
commissioner.

pared and furnished to each of the companies, and to the attorneys of companies incorporated by other states and foreign governments, printed forms of the statements required by this act; and he may, from time to time, make such changes in the form of such statements as shall seem to him best adapted to elicit from the companies a true exhibit of their condition in respect to the several points hereinbefore enumerated. It shall be the duty of the secretary of state [commissioner of insurance] to cause the information contained in the statements required by this act to be arranged in a tabular form, and prepare the same in a single document for printing, which he shall communicate to the legislature.

"Commissioner of Insurance."—See note to section 14 of this compilation.

Capital re-
quired of all
stock com-
panies.

Attorney.

Service of
process on.

Charter, etc.,
to be filed.

(197) § 7246. SEC. 23. It shall not be lawful for any fire insurance company, association, or partnership incorporated by or organized under the laws of any other state of the United States, or any foreign government, directly or indirectly, to take risks or transact any business of insurance in this state, unless possessed of the amount of actual capital required of similar companies formed under the provisions of this act; and any such company desiring to transact any such business as aforesaid, by any agent or agents in this state, shall first appoint an attorney in this state on whom process of law can be served, which process shall issue from the courts of this state, and such courts shall have exclusive jurisdiction of all cases arising under this act, and shall file in the office of the secretary of state [commissioner of insurance] a certified copy of the vote or resolution of the directors appointing such attorney, which appointment shall continue until another attorney be substituted; and in case any such insurance company shall cease to transact business in this state according to the laws thereof, the agent last designated, or acting as such for such corporation, shall be deemed to continue agent for such corporation for the purpose of serving process for commencing actions upon any policy or liability issued or contracted while such corporation transacted business in this state, and service of such process for the causes aforesaid upon any such agent shall be deemed a valid personal service upon such corporation; and shall also file a certified copy of its charter, or deed of settlement, together with a statement under the oath of the president or vice president and other chief officer, and secretary, of the company for which he or they may act, stating the name of the company and place where located; the amount of its capital, with a detailed statement of its assets, showing the amount of cash on hand, in bank, or in the hands of agents; the amount of real estate, and how much the same is encumbered by mortgage; the number of shares of stock of every kind owned by the company, the par or market value of the same; amount loaned on bond and mortgage; the amount

loaned on other security, stating the kind, and the amount loaned on each, and the estimated value of the whole amount of such securities; any other assets or property of the company; also, stating the indebtedness of the company, the amount of losses adjusted and unpaid, the amount incurred and in process of adjustment, the amount resisted by the company as illegal and fraudulent, and any other claims existing against the company; also, a copy of the last annual report, if any, made under any law of the state by which such company was incorporated; and no agent shall be allowed to transact business for any company whose capital is impaired to the extent of fifteen per cent thereof while such deficiency shall continue; nor shall it be lawful for any person to act as agent for any company or companies referred to in this section, directly or indirectly, in taking risks or transacting the business of fire or inland navigation insurance in this state without procuring or receiving from the secretary of state [commissioner of insurance] a certificate of authority, stating that such company has complied with all the requisitions of this act which apply to such companies, and the name of the attorney appointed to act for the company. A certified copy of such certificate of authority, with statement, must be filed by the agent in the office of the clerk of every county where such company has agents, and shall be published in some paper of general circulation in the state, four successive times after the filing such statement as aforesaid, and within thirty days thereafter proof of such publication, by the affidavit of the publisher of such newspaper, his foreman, or clerk, shall be filed in the office of the said secretary of state [commissioner of insurance]. The statements and evidences of investments required by this section shall be renewed from year to year, in such manner and form as may be required by said secretary of state [commissioner of insurance], with an additional statement of the amount of premiums received and losses incurred upon fire and marine risks separately, in this state, during the preceding year, so long as such agency continues; and the said secretary of state [commissioner of insurance], on being satisfied that the capital, securities, and investments remain secure, as hereinbefore provided, shall furnish a renewal of his certificate as aforesaid; and the agent or agents obtaining said certificate shall file a certified copy of the same in the office of the clerk of the county in which such agency shall be established, within thirty days after receiving the same. Any violation of any of the provisions of this section shall subject the company violating to a penalty of five hundred dollars for each violation, and the additional sum of one hundred dollars for each month during which any such company shall neglect to make such publication, or to file such affidavits and statements as are herein required. Every agent of any fire insurance company shall, in all advertisements of such agency, publish the location of the company, giving the name

Impairment.

Certificate of authority.

Filing with county clerk.

Publication and affidavit of same.

Annual statement to be renewed yearly.

Renewal of certificate of authority.

Penalties.

Advertisements of agents.

Meaning of
term agent.

of the city, town, or village in which the company is located, and the state or government under the laws of which it is organized. The term agent or agents, used in this section, shall include any acknowledged agent, surveyor, broker, or any other person or persons who shall in any manner aid in transacting the insurance business of any insurance company not incorporated by the laws of this state. The provisions of this section shall apply to all foreign insurance companies, partnerships, associations, and individuals, whether incorporated or not.

"Commissioner of insurance."—See note to section 14 of this compilation. No foreign insurance company, however formed or created, can directly or indirectly take any fire risks or transact any business within this state, unless authorized so to do as provided in this section.—*People v. Howard*, 50 / 248; *Hartford Fire Ins. Co. v. Raymond*, 70 / 501. The power of the commissioner under this act is but ministerial in its nature and not the exercise of judicial functions.—*Hartford Fire Ins. Co. v. Raymond*, 70 / 506. Submission to the exclusive jurisdiction of the courts of this state, by a foreign corporation, is a waiver of its right, as a quasi citizen of another state, to remove causes to the federal courts.—*People v. Judge*, 21 / 577; *Home Ins. Co. v. Davis*, 29 / 238. But see *Insurance Co. v. Morse*, 20 Wallace, 445, and *Hartford Fire Ins. Co. v. Raymond*, 70 / 503. In an action upon a policy of a foreign insurance company, its authority to do business need not be proved and the company is estopped from denying its authority and defending upon such grounds.—*Clay F. & M. Ins. Co. v. Huron S. & L. Co.*, 31 / 346. Person aiding in transacting the business of a foreign insurance company deemed to be its agent.—*Pollock v. German Fire Ins. Co.*, 127 / 460; *Bliss v. Potomac Fire Ins. Co.*, 134 / 212. This section does not violate the 14th amendment to the federal constitution.—*Pollock v. German Fire Ins. Co.*, 132 / 225. This section does not operate to increase an agent's authority, and make the principal liable for his representations as to authority.—*Barry, etc., Lumber Co. v. Insurance Co.*, 136 / 48. Principal and agent.—*Gore v. Canada Life Ins. Co.*, 140 / 562.

Annual state-
ment, when
made, by com-
panies of this
state, etc.

Foreign
companies.

(198) § 7247. SEC. 24. All insurance companies, associations, corporations, partnerships, or individuals transacting the business of fire or fire and marine insurance in this state, incorporated by or organized under the laws of any other state of the United States, shall make annual statements to the secretary of state [commissioner of insurance], in such manner and on such detailed forms as may be prescribed or furnished by him, of their condition and affairs upon the thirty-first day of December preceding, on the first day of January in each year, or within thirty days thereafter. Companies, associations, corporations, partnerships, or individuals incorporated and organized under the laws and authority of any foreign government, authorized to transact business in this state, shall be required to make and file their annual statements on the first day of June in each year, or within sixty days after their annual meeting as specified in their respective charters or acts of incorporation. They shall also cause to be made out and filed supplementary annual statements of their business in the United States for the year ending the thirty-first day of December, on the first day of January in each year, or within sixty days thereafter. Such supplementary reports shall be made out in the same manner as the reports required from companies organized under the laws of other states of the United States, and the managers, resident directors, or general agents for the United States shall, for the purposes of making such supplementary re-

ports, be deemed the legal and proper officers of such companies or corporations.

"Commissioner of Insurance."—See note to section 14 of this compilation. It is not necessary that insurers, whether individuals, companies or associations, though located in other states, should be incorporated to authorize them to do business in this state. But, like corporations, such individuals, etc., must comply with the statute requirements.—*People v. Jones*, 24 / 223.

(199) § 7248. SEC. 25. In case of neglect or refusal to make such annual statements as aforesaid, all persons acting in this state as agents or otherwise in transacting the business of insurance for said companies, corporations, associations, partnerships or individuals, shall be subject to the same penalties provided by law in case of the failure of any insurance company organized under the laws of this state to make an annual statement as now provided by law. Penalties for failure to make statement.

(200) § 7249. SEC. 26. It shall be the duty of the secretary of state [commissioner of insurance], as often as once in six months, to appoint one or more competent persons, not officers of any fire insurance company doing business in this state, to examine into the affairs of any fire insurance company incorporated under any law of this state, and whenever he shall deem it expedient so to do, to examine into the affairs of any such company incorporated or organized under the laws of any other state of the United States doing business by its agents in this state; and it shall be the duty of the officers or agents of any such company doing business in this state to cause their books to be opened for the inspection of the person or persons so appointed, and otherwise to facilitate such examination so far as it may be in their power to do; and for that purpose the said secretary of state [commissioner of insurance], or the person or persons so appointed by him, shall have power to examine, under oath, the officers and agents of any company relative to the standing and condition of said company; and whenever the said secretary of state [commissioner of insurance] shall deem it for the interest of the public so to do, he shall publish the result of such investigation in one or more papers in this state; and whenever it shall appear to the said secretary of state [commissioner of insurance], from such examination, that the assets of any company incorporated under any law of this state are insufficient to justify the continuance in business of any such company, he may direct the officers thereof to require the stockholders to pay in the amount of such deficiency within such period as he may designate in such requisition, and in case any such company shall fail to pay in and make good the full amount of such deficiency within thirty days after such requisition and direction as aforesaid, it shall be the duty of the secretary of state [commissioner of insurance] to give notice of such failure in some newspaper published in the county where the office of such company is located by its charter; such notice shall contain a brief statement of the fact of such failure to comply with Examination of companies by commissioner.
Books to be opened for inspection.
May publish results.
When deficiency is found.

When the issuing of policies to cease.

Application to courts.

Referee.

Corporate existence, how proved.

this section, and shall be published in such paper once in each week for three successive weeks. It shall not be lawful after the first publication of such notice for such company to issue any policy of insurance, or to make any contract for the same, or to transact any business under its charter, except to close up its business; and all contracts of insurance and policies issued after such first publication of such notice shall be void and of no binding force, and the person or persons making such contracts or issuing such policy shall be liable, in an action of trover, to the person assured, in double the sum named as premium in such contract or policy, and the secretary of state [commissioner of insurance] may apply to any circuit court in the state, or if in vacation to any judge thereof, for an order requiring them to show cause why the business of such company should not be closed and a receiver appointed of its assets and funds, and the court or judge shall thereupon proceed to hear the allegations and proofs of the respective parties; and in case it shall appear to the satisfaction of such court, or the judge thereof, on the hearing of such proofs, that the assets and funds of such company are not sufficient, as aforesaid, or that for any cause such company is not entitled to transact business in this state, the said court or judge thereof shall decree a dissolution of such company, and a distribution of its effects. The said court or judge thereof shall have power to refer the application of the secretary of state [commissioner of insurance] to a referee, to inquire into and report upon the facts stated therein. Upon any such investigation before such court, judge, or referee, the report of the persons appointed by the secretary of state [commissioner of insurance] to examine into the affairs of such company shall be prima facie evidence of the facts therein contained. The corporate existence of such company may be proved, if necessary, by a copy of the articles of association, with a certificate of the secretary of state [commissioner of insurance] attached, that such copy is a duplicate of the copy on file in his office. It shall be the duty of the prosecuting attorney of the county where such proceedings are instituted, on application of the secretary of state [commissioner of insurance] or the attorney general, to appear for the people and prosecute the same.

"Commissioner of Insurance."—See note to section 14 of this compilation. As to the examination into the affairs of insurance companies and the revocation of authority to do business, see notes to section 24 of this compilation.

Call on stockholders.

(201) § 7250. SEC. 27. Any company receiving the aforesaid requisition from the said secretary of state [commissioner of insurance], shall forthwith call upon its stockholders for such amounts as will make its capital equal to the amount fixed by the charter of said company; and in case any stockholder of such company shall refuse or neglect to pay the amount so called for, after notice personally given or by advertisement, in such time and manner as the said

secretary of state [commissioner of insurance] shall approve, it shall be lawful for the said company to require the return of the original certificate of stock held by such stockholder, and in lieu thereof to issue new certificates for such number of shares as the said stockholder may be entitled to in the proportion that the ascertained value of the funds of the said company may be found to bear to the original capital of the said company; the value of such shares, for which new certificates shall be issued, to be ascertained under the direction of the said secretary of state [commissioner of insurance], and the company paying for the fractional parts of shares; and it shall be lawful for the directors of such company to create new stock and dispose of the same, and to issue new certificates therefor, to an amount sufficient to make up the original capital of the company.

"Commissioner of Insurance."—See note to section 14 of this compilation.

(202) § 7251. SEC. 28. And it is hereby declared that in the event of any additional losses accruing upon new risks, taken after the expiration of the period limited by the said secretary of state [commissioner of insurance] in the aforesaid requisition for the filling up of the deficiency in the capital and assets of such company, and before said deficiency shall have been made up, the directors shall be individually liable to the extent thereof. And if, upon such examination, it shall appear to the said secretary of state [commissioner of insurance] that the assets of any company chartered on the plan of mutual insurance under any law of this state are insufficient to justify the continuance of such company in business, it shall be his duty to proceed in relation to such company in the same manner as is herein required in regard to joint stock companies; and the trustees or directors of such company are hereby made personally liable for any losses which may be sustained upon risks taken after the expiration of the period limited by the said secretary of state [commissioner of insurance] for filling up the deficiency in the capital and assets of such company, and before such deficiency shall have been made up. Any transfer of the stock of any company, organized under this act, made during the pending of any such investigation, shall not release the party making the transfer from his liability for losses which may have accrued previous to the transfer. All the provisions of section twenty-six of this act shall apply to any company chartered on the plan of mutual insurance under the laws of this state; and whenever it shall appear to the said secretary of state [commissioner of insurance] that the affairs of any company not incorporated by the laws of this state are in an unsound condition, he shall revoke the certificates granted in behalf of such company, and shall cause a notification thereof to be published in some paper of general circulation in this state for four weeks; and the agent or agents of such company are, after such notice, required to discon-

When directors liable.

Proceedings by commissioner when deficit is found.

Transfer of stock.

Provisions applicable to mutuals.

Revocation of authority.

Agents liable thereafter.

tinue the issuing of any new policy, and the renewal of any previously issued; and the agent or agents of any such company not incorporated by the laws of this state who shall issue any new policy, or make any contract for the same after such publication, shall be liable in an action of trover to the persons assured in double the sum named as premium in such policy or contract.

"Commissioner of insurance."—See note to section 14 of this compilation. As to the revocation of authority and the power of the commissioner under this act, see notes to sections 24 and 197 of this compilation.

Penalties.

(203) § 7252. SEC. 29. Every penalty provided for by this act, or by any other act heretofore enacted by the legislature of this state relating to insurance, shall be sued for and recovered in the name of the people by the prosecuting attorney of the county in which the company or the agent or agents so violating shall be situated; one-fourth of said penalty, when recovered, shall be paid to the party making the complaint, and the remainder shall be paid into the treasury of said county; and in the case of the non-payment of such penalty the party so offending shall be liable to imprisonment for a period not exceeding six months, in the discretion of any court having cognizance thereof; such penalties may also be sued for and recovered in the name of the people, by the attorney general, and, when sued for and collected by him, shall be paid into the state treasury.

Duration of charter.

(204) § 7253. SEC. 30. All companies incorporated under this act may provide, in their articles of association, for not more than thirty years' duration; but the legislature may at any time alter, amend or repeal this act, and provide for the closing up of the business and affairs of any company formed under it.

Fee of county clerk.

(205) § 7254. SEC. 31. The certificates of authority required by section twenty-three of this act, and all necessary duplicates and copies, shall be furnished to the several companies by the secretary of state [commissioner of insurance] without charges or fees, but every county clerk may demand and receive for every such certificate filed in his office under this act the sum of twenty-five cents.

"Commissioner of insurance."—See note to section 14 of this compilation.

Expenses of examinations.

(206) § 7255. SEC. 32. The necessary expenditures of any examination made or ordered to be made by the secretary of state [commissioner of insurance] under this act shall be certified to by him, and paid on his requisition by the company which is the subject of such examination, not exceeding five dollars per day and expenses.* Provided, The cost and expenses of the examination of any company incorporated under the laws of any other state, or any foreign government, the central or general office of which is outside

Proviso.

*The compensation of \$5 per day is superseded by the provisions of section 8 of this compilation.

this state, shall be certified by the secretary of state [commissioner of insurance] to the auditor general as proper and reasonable, and upon the receipt of such certificate the auditor general shall draw his warrant for the same, payable out of the general or contingent fund of the state, and the state treasurer, on the presentation of any such warrant is hereby authorized and directed to pay the same.

"Commissioner of Insurance."—See note to section 14 of this compilation.

(207) § 7256. SEC. 33. It shall not be lawful for any company organized upon the mutual plan to do business and take risks upon the stock plan, neither for a company organized as a stock company to do business upon the plan of a mutual insurance company. Stock and mutual companies confined to distinct plans.

(208) § 7257. SEC. 34. Any fire insurance company, association or partnership incorporated by or organized under the laws of any other state, or any foreign government doing business within this state, shall, as a condition precedent to the renewal of an annual certificate by the commissioner of insurance, make and file in the office of the state treasurer, annually, in the month of January of each year, on oath or affirmation, a statement of the number of fire policies issued by its agents, and procured by or written for sub-agents, solicitors or brokers, upon property owned by residents of or situate in, the state of Michigan; also, a like statement of the marine insurance business transacted in the state of Michigan, and the gross amount of premiums received or secured thereon during the year then terminated; and shall pay into the hands of the state treasurer a specific tax of three per cent on the gross amount of all premiums received in money or securities during the said year, and in ascertaining the gross amount of all premiums received or secured, the return premiums on canceled policies shall be deducted, and shall not be included in the term "gross amount of premiums;" which said specific tax may be recovered from any company neglecting or refusing to pay the same in any court, at the suit of this state, and shall be and hereby is appropriated to the same uses and purposes as the specific tax on such corporation are or hereafter may be; and it shall be the duty of the state treasurer to give his receipts for all moneys paid into the state treasury under the provisions of this act: How may renew certificate.
 Provided, however, That when, by the statutes or rulings of the insurance department of any state, a tax is laid or levied upon the amount of the gross receipts of premiums received upon any company organized under the laws of this state and doing business in such state, which amount of gross receipts shall include return premiums, then insurance companies from that state doing business in this state, shall be taxed upon the amount of gross receipts for premiums without excluding the cancellation: Specific tax to pay.
 Provided, further, That all companies transacting any reinsurance business in any manner shall pay the above tax upon the original Proviso.

Further
proviso.

premium received by the reinsured company on that portion of the risk reinsured: Provided, however, Said reinsuring company may deduct from such premiums that portion of such premiums upon which the reinsured company has paid the above three per cent tax.

Am. 1899, Act 118; 1903, Act 164.

As to the necessity for compliance with the law, see notes to sections 184 and 197 of this compilation. Taxes in the case of mutual companies are calculated on the maximum annual premiums set down in their policies.—Conn. Mut. Life Ins. Co. v. State Treasurer, 31/6.

When com-
pliance to be
made with act.

(209) § 7258. SEC. 35. Every insurance company organized under the laws of, or doing business in this state, shall conform to all the provisions of this act applicable thereto, on or before the thirty-first day of January, 1870, and when necessary, any existing company shall change its articles of association and by-laws, so as to conform hereto, by a vote of a majority of its board of directors; and any president, secretary, or other officer of any company organized under the laws of Michigan, or any officer, agent or person doing, or attempting to do business in this state, for any insurance company organized without this state, failing to comply with any of the requirements of this act, or violating any of the provisions thereof, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in a sum not exceeding one thousand dollars, and be imprisoned in the county jail for a period of not less than thirty days nor more than six months.

False pretense
as to amount
of capital.

(210) § 7259. SEC. 36. If any stock company, or any company organized under the plan of mutual insurance under this act, or the act of [or] acts of which this is amendatory, shall, by means of any advertisement, notice, or statement printed in any newspaper, or by means of any written or printed, or partly written and partly printed notice, circular or handbill, or by any agent, or other person acting for said company, or by other means falsely represent, publish, or hold out to the public that the capital stock of such company, or the stock or guarantee capital of any such mutual company is greater, or of a larger amount than the actual cash market value of such capital stock, or guarantee capital, every director, officer, or agent of such company guilty of any participation therein shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be punished as provided in section thirty-five of this act; and if any such company, after any such false statement or representation, notice, advertisement, or circular shall have been given out, circulated or published, shall receive any money, note, or obligation for the payment of money from any person, as a consideration for any insurance made, or policy issued or to be issued by such company, [the] directors, officers, or agents of such company shall be deemed to have obtained such money, note or obligation by false pretenses, designedly, with intent to defraud or cheat the person paying such consideration, and

Punishment
therefor.

shall be punished the same as persons guilty of obtaining property or money by false pretenses designedly, with intent to defraud or cheat another, and shall also be liable in damages to the person from whom the money, note, or obligation was obtained, in an action in the case for double the amount of the money, and note or obligation so obtained, and shall also be jointly and severally liable to the person insured, to pay all losses covered by such insurance: Provided, That the said company may proceed with its business, receiving money, issuing policies, whenever the circuit judge for the judicial circuit where the office of said company is located shall certify from proof adduced before him, either that such publication was by mistake, or that the directors, officers, or agents making the same have been dismissed from the service of the said company, and whenever, also, the said company shall publish such true statement of its affairs as the said circuit judge shall direct.

Sec. 37 was superseded by Act 82 of 1873, sections 260-281 of this compilation.

(211) § 7261. SEC. 38. Any persons required by the provisions of this act to take any oath or affirmation, who shall make any false oath or affirmation, shall be deemed guilty of perjury.

Sec. 39 repeals "all acts and parts of acts inconsistent herewith."

(212) § 7262. SEC. 40. Any company formed under this act shall have the power to amend its articles of association at any regular meeting of the stockholders or members called by the directors for that purpose; but notice of such meeting, and of the purpose for which it is called, shall be served on each of the stockholders, or, if it is a mutual company, on each of the members, either personally or by directing the same through the postoffice to the last known postoffice address of such stockholder or member, at least three weeks previous to such meeting; but such amendments shall not take effect until submitted to the attorney general, and certified by him not to conflict with the constitution or laws of this state, nor until a copy thereof, signed by the president and secretary of the company, shall be filed in the office of the secretary of state, and of the county clerk where the original articles were filed.

Sec. 41 repeals "all acts and parts of acts inconsistent with the provisions of this act."

(213) § 7263. SEC. 42. Any mutual insurance company organized under the laws of any other state, in the United States, possessed of not less than two hundred thousand dollars in premium notes (face value) of solvent parties, and not less than ten thousand dollars, either of cash on deposit, or securities immediately convertible into cash for that amount, which would or shall limit its business to the class of risks

Compliance with provisions relieves from penalties, etc.	hereinafter named, may be admitted to take risks upon mills, factories, and their accessories, such as elevators, warehouses, lumber yards, stores, and other property forming a part of such manufacturing property, and transact such business in this state, on complying with the provisions of the act of which this is amendatory, as to fire insurance companies, so far as the same may be applicable to mutual fire insurance companies, and compliance with the provisions of this act within the six months next succeeding its going into effect, by any company, shall be deemed to relieve the companies so complying, from all penalties or disabilities imposed or sought to be imposed, by section six of an act entitled "An act to prevent the soliciting or issuing of unauthorized fire or inland marine insurance policies in this state," and approved May twelve, eighteen hundred and eighty-one, or under any other statutes of this state, except as herein otherwise provided:
Proviso.	Provided, however, That no such company shall be admitted until it has paid into the office of the state treasurer, a specific tax of three per cent on the gross amount of all cash premiums received by it, for insurance on property situated in this state, prior to the time when this act takes effect:
Further proviso.	And provided further, That no insurance company which has violated the provisions of said act, shall be admitted until it has paid into the office of the state treasurer a penalty of two hundred and fifty dollars. The term premium as used in this section, for the purpose of taxation, shall be construed to mean all moneys either heretofore or hereafter received by any insurance company, whether as original payments, or by way of subsequent assessments on premium note, and no other moneys. Before being admitted to do business under the provisions of this section, each of said mutual insurance companies shall furnish to the commissioner of insurance, a schedule of the notes held by it, no one of which shall exceed the sum of five thousand dollars, and each yearly statement shall contain a similar schedule.
How term premium construed.	The solvency of which notes shall be subject to the approval of said commissioner, who may revoke the authority of any company to do business in this state, at any time when a reduction of fifteen per cent has been made in its notes, or assets required by this section. The notes required by this section, shall be liable to assessment by any of said companies, for any of its losses, and shall constitute a first lien on the insured property. In ascertaining the amount of premiums upon which the tax is to be computed by any company, no deduction for reinsurance shall be made except the reinsurance is in companies authorized to do business in this state. Mutual companies shall not reinsure any risk, except by consent of the insured, and detailed statements of all reinsurances by such companies shall be included in the annual statements filed in the insurance bureau by them.
Schedules to be furnished to commissioner of insurance.	
Revocation of authority of companies, etc.	
Notes liable to assessment.	
Computing premiums on which tax to be paid.	

Giddings, insurance commissioner, under date of Feb. 7, 1896, held: "In case of companies setting up clearly in their policies a contingent liability

of three or more times the amount of the annual premium, I conclude that, in a collection of the same by the company, the same results are obtained as though the assured gave to the company an assessment note. The liability of the assured to the company being the same and the security to the company of a like nature, I therefore conclude that such companies may be admitted to do business under the provisions of the law, the same as though they took assessment notes."

An Act to provide for the reorganization of fire and marine insurance companies, the terms of existence of which may hereafter expire by limitation, and to fix the duties and liabilities of such renewed corporation.

[Act 62, P. A. 1895.]

The People of the State of Michigan enact:

(214) § 7264. SECTION 1. That it shall be lawful for any corporation heretofore organized or existing under the general laws of this state, for the purpose of making insurance on dwelling houses, stores and all kinds of buildings, and upon household furniture, goods, wares and merchandise, and any other property, against loss or damage by fire, and to make insurance upon vessels, freights, goods, wares and merchandise and other property against the risks of inland navigation, and transportation, whose corporate term is about to expire by limitation at any time within two years next preceding the expiration of its charter, by a vote of at least two-thirds of its capital stock at any annual meeting or at any special meeting of its stockholders called for that purpose to direct continuance of its corporate existence for such further term, not exceeding thirty years from the expiration of its former term, as may be expressed in a resolution for that purpose. Upon the adoption of such resolution by the stockholders voting in person or by proxy, duly filed at the annual meeting or at any special meeting called in accordance with the by-laws of the corporation, it shall be the duty of the president and secretary of the stockholders' meeting, to make, sign and acknowledge duplicate articles of association, as in the case of a new corporation, to which shall be appended a copy of the proceedings of such stockholders' meeting, certified by the secretary and verified by his oath, which articles of association shall be filed with the secretary of state, and with the county clerk of the county where the principal office of the corporation is located and be recorded in their respective offices, at the expense of said corporation, and the copies so filed, or the record thereof, or the certified copy of either of such records, shall be prima facie evidence of the facts therein recited: Provided, The franchise fee provided by act number one hundred eighty-two of the public acts of eighteen hundred ninety-one shall apply and be paid by such corporation reincorporated hereunder.

Reorganization of fire and marine insurance companies.

Stockholders may direct corporate existence.

President to sign articles of association.

Where filed.

Proviso as to franchise fee.

Duties and
liabilities of
renewed
corporation.

Proviso.

(215) § 7265. SEC. 2. The renewed term of such corporation shall begin from the expiration of the former term thereof, and the corporation thus renewed shall hold and own all the property held and owned by the corporation before renewal, and shall be liable for all its debts and liabilities and obligations, and every stockholder in the corporation before renewal, shall be a stockholder to the same amount in the renewed corporation, as fully as if the former corporate term had not expired, and the directors and officers who were such in fact at the time of the meeting, shall hold and continue in their office until their successors shall be elected and shall qualify: Provided, nevertheless, That if the call for the meeting to extend the corporate term shall embrace a notice that a number of directors will be elected at such meeting, such election may be then held accordingly, and the directors become and be the directors of such renewed corporation.

An Act to confer upon fire and marine insurance companies authority to insure property against loss or damage by lightning, wind and water.

[Act 154, P. A. 1905.]

The People of the State of Michigan enact:

Authorizing
companies to
insure against
lightning, etc.

Liability for
damage from
water.

(216) SECTION 1. All insurance companies heretofore organized, or that may be hereafter organized, under the provisions of chapter one hundred ninety-four of the compiled laws of eighteen hundred ninety-seven, are hereby authorized and empowered to issue policies of insurance upon any and every kind of property, against loss or damage by lightning, wind and water, or either of the same.

(217) SEC. 2. Nothing contained in this act shall be construed as in any way limiting or changing the liability under the ordinary fire policy for damage resulting from water in case of fire.

Am. 1907, Act 171.

An Act to allow mutual marine insurance companies to transact business within this state.

[Act 34, S. L. 1873.]

The People of the State of Michigan enact:

Mutual marine
insurance com-
panies, how
incorporated.

(218) § 5121. SECTION 1. That it shall be lawful for such mutual insurance companies, organized under the laws of any other state, as transact the business of marine or in-

land insurance exclusively, to do business in this state, with the consent of the commissioner of insurance of this state, upon filing the statements, making the applications, and complying in all respects, so far as applicable with the provisions of an act entitled "An act relative to the organization and powers of fire and marine insurance companies transacting business in this state," chapter ninety-nine of the compiled laws of eighteen hundred and seventy-one, and all acts amendatory thereof; and the commissioner of insurance is hereby authorized to admit such mutual insurance companies to do marine and inland insurance exclusively, upon their complying with all the provisions of said act, except the requirement as to paid in capital stock: *Provido.* *Said* commissioner of insurance may at any time, when he shall have knowledge or good reason to believe any such company is not sound, or has made any false statement of its condition, to revoke such permit and all certificates granted to such company and its agents, and require them to discontinue business in this state. Any agent of such company refusing to obey the order of such commissioner to discontinue business, or writing risks in any company excluded by such commissioner, after notice of such exclusion, or of a revocation of its certificate of authority by such commissioner, shall be guilty of a misdemeanor, and may be punished, upon conviction thereof, as in other cases of misdemeanor, in the discretion of the court.

An Act to define and establish a reinsurance reserve for fire and marine insurance companies, doing business in this state.

[Act 149, S. L. 1873.]

The People of the State of Michigan enact:

(219) § 5169. SECTION 1. That it is hereby made the duty of the commissioner of insurance to calculate the reinsurance reserve for every fire and fire-marine insurance company organized under the laws of this state or doing business therein, by taking fifty per cent of the premiums received on all unexpired risks that have less than one year to run, and a pro rata of all premiums received on risks that have more than one year to run: *Provido.* *That* when the reinsurance reserve, calculated as above, is less than forty per cent of all the premiums received during the year, the reinsurance reserve in such case shall be the whole of the premiums received on all unexpired risks: *Provido further,* In the case of perpetual risks or policies, the whole amount of the deposit or premium paid by the assured shall be deducted: *And provided further,* That no installment, part paid, or other notes

Reinsurance reserve, how calculated.

Provido.

Perpetual policies.

Notes not allowed.

Reserve on
marine and
inland risks.

shall be accepted or allowed as assets in calculating the reinsurance reserve of any fire insurance company organized or doing business upon the stock plan; and in marine and inland insurance he shall charge all the premiums received on unexpired risks, as a reinsurance reserve.

An Act relative to the admission of insurance companies of foreign governments into this state.

[Act 71, P. A. 1879.]

The People of the State of Michigan enact:

When com-
missioner may
issue certifi-
cates of
authority.

(220) § 5133. SECTION 1. That whenever any fire or fire and marine insurance company, corporation, association, partnership, or individuals incorporated by or under the laws of any foreign government shall have securities deposited in any state of the United States, in accordance with the laws thereof, for the sole benefit and security of the policy holders of such insurance company or corporation residing in the United States, to the amount of two hundred thousand dollars, and shall make and execute, under oath, a report of its financial standing, and of such securities, attested by the trustees thereof, which trustees shall be actual residents of the United States, together with a full statement of the business of such insurance company or corporation in the United States for the year next preceding such statement, in the same manner and form and at the same time as is now required by law of insurance companies of other states of the United States, and shall at the same time appoint an attorney in this state upon whom process of law can be served; then and in that case it shall be lawful for the commissioner of insurance to issue to such insurance company or corporation a certificate of authority to transact the business of fire or fire and marine insurance in this state, subject to the laws thereof: Provided, That such securities so deposited are made available to the citizens of this state, under the laws of the state in which said securities are deposited. In estimating the financial standing of such companies or corporations, such deposit of two hundred thousand dollars shall be considered the cash capital of the company.

Proviso.

Prussian National Ins. Co. v. Elsenhardt, 153 / 198.

Who to be
deemed proper
officers of
companies.

(221) § 5134. SEC. 2. The managers, resident directors, resident secretary, or general agents for the United States shall, for the purposes of this act, be deemed the legal and proper officers of such insurance company or corporation, and such company or corporation shall file with said insurance commissioner its consent thereto.

Section 3 repeals "all acts or parts of acts conflicting with this act."

An Act to regulate the manner in which insurance companies not organized under the laws of this state, but doing business within it, shall transact their business.

[Act 285, P. A. 1887.]

The People of the State of Michigan enact:

(222) § 5123. SECTION 1. That no fire, fire and marine, or marine and inland insurance company or association not organized under the laws of this state shall be permitted to do business therein under the provisions of an act entitled "An act relative to the organization and powers of fire and marine insurance companies transacting business in this state," approved April three, eighteen hundred and sixty-nine, until, in addition to complying with the provisions of said act, it has filed with the commissioner of insurance an undertaking, duly executed and authenticated by the company, in such form as the commissioner of insurance shall from time to time prescribe, that it will not directly or indirectly enter into any contract, agreement, arrangement or undertaking of any nature or kind whatever with any other company, companies, association or associations, the object or effect of which is to prevent open and free competition between it and said company, companies, association or associations, or the agents of their respective companies or associations in the business transacted in this state, or in any part thereof.

Foreign companies to file certain undertaking with commissioner.

The title of this act sufficiently states its object.—Insurance Co. v. Raymond, 70/500. As to the necessity of compliance with the statutes see notes to sections 184 and 197 of this compilation. See Prussian National Ins. Co. v. Eisenhardt, 153/198.

(223) § 5124. SEC. 2. No fire, fire and marine, or marine and inland insurance company or association not organized under the laws of this state, but doing business therein, shall either directly or indirectly enter into any contract, agreement, arrangement, or undertaking of any nature or kind whatever with any other company, companies, association or associations, the object or effect of which is to prevent open and free competition between it and said company, companies, association or associations, or between the agents of their respective companies or associations in the business transacted in this state, or in any part thereof.

Not to enter into certain contracts with other companies.

(224) § 5125. SEC. 3. It shall not be lawful for the agent of any fire, fire and marine, or marine and inland insurance company or association not organized under the laws of this state, but doing business therein, to enter into any contract, agreement, arrangement, or undertaking of any nature or kind whatever with the agent of any other such company, companies, association or associations, the object or effect of which to prevent free and open competition between the companies or associations represented by said

Unlawful for agent of said companies to enter into certain contracts, etc.

agents in the business transacted in this state, or in any part thereof.

Certain acts
of certain
agents, etc.,
unlawful.

(225) § 5126. SEC. 4. It shall not be lawful for any person or persons as agent, solicitor, broker, surveyor, or in any other capacity, to transact or to aid in any manner, directly or indirectly, in transacting or soliciting within this state, business for any fire, fire and marine, or marine and inland insurance company or association not incorporated by the laws of this state, or in any other capacity to procure or assist to procure a fire or inland marine policy or policies of insurance in any company or association which is violating the provisions of section two of this act, or whose agent or agents are violating the provisions of section three hereof.

Violation a
misdemeanor.

(226) § 5127. SEC. 5. Any person violating any of the provisions of section three or four of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not less than fifty dollars, nor more than one hundred dollars, and in default of payment thereof shall be imprisoned in the county jail not exceeding three months, or by both such fine and imprisonment, in the discretion of the court.

Commissioner
of insurance
to prepare
and distribute
blanks.

(227) § 5128. SEC. 6. It shall hereby be made the duty of the commissioner of insurance, within thirty days after this act takes effect, to provide a blank form of the undertaking provided for in section one of this act, to cause copies thereof to be printed, and to mail one or more to each fire, fire and marine, and marine and inland insurance company or association not incorporated under the laws of this state, but doing business therein in pursuance of authority granted by the commissioner of insurance; and it is further made the duty of the commissioner of insurance to revoke the certificate of each and every of said companies or associations which shall not file said undertaking, properly filled out, executed and authenticated within thirty days after the mailing of said blank form, and to cause notification of such revocation to be published in some paper of general circulation in this state once in each week for four weeks.

Certificates of
companies not
complying to
be revoked.

As to the nature of the commissioner's power and the revocation of certificates, see notes to sections 24 and 197 of this compilation.

Duty of
commissioner
to investigate
violations of
this act.

(228) § 5129. SEC. 7. It is hereby made the duty of the commissioner of insurance, or his deputy, on receiving notice in writing or otherwise, of any violation of the provisions of this act, to investigate the same, and if he shall become satisfied that any company or association is violating the undertaking provided for in section one, or the provisions of section two, or is represented by any agent who is violating the provisions of section three, he shall forthwith revoke the certificate granted in behalf of such company or association, and cause notification thereof to be published in

some paper of general circulation in this state once in each week for four weeks.

(229) § 5130. SEC. 8. Any person or persons who shall act as agent, solicitor, surveyor, or broker, or transact, or aid in any manner, directly or indirectly, in transacting, or soliciting, within this state, business for any such company or association, or in procuring or assisting to procure a policy of insurance on property situated within this state in any such company or association, after its certificate of authority has been revoked in accordance with the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not less than fifty dollars, nor more than one hundred dollars, and in default of payment thereof shall be imprisoned in the county jail not exceeding ninety days, or by both such fine and imprisonment, in the discretion of the court.

Penalty for soliciting, etc., business for company where certificate is revoked.

(230) § 5131. SEC. 9. All violations of this act shall be prosecuted in the name of the people by the prosecuting attorney, and all fines collected for violations of this act shall be paid into the treasury of the county in which the complaint was filed, to be disposed of according to law.

Prosecution of violations.

(231) § 5132. SEC. 10. All necessary expenses incurred by the commissioner of insurance in carrying out the provisions of this act shall be audited by the board of state auditors and paid out of the general fund.

Expenses of commissioner, how paid.

Sec. 11 provides that "the provisions of this act shall not apply to companies now authorized to do business in this state until after the 31st day of January, 1888."

An Act to regulate fire and marine insurance companies transacting business in this state, by requiring all contracts for reinsurance to be made with companies authorized by the commissioner of insurance to do business in this state, and to punish violations of this act.

[Act 240, P. A. 1899.]

The People of the State of Michigan enact:

(232) SECTION 1. No person, association or corporation transacting fire or marine insurance business in this state shall, directly or indirectly, contract for or effect reinsurance of any risk, in any company, corporation or association not licensed by the commissioner of insurance of this state to transact fire or marine insurance business therein.

Reinsurance in non-licensed companies prohibited.

(233) SEC. 2. A sworn statement of all reinsurance made or effected by any fire or marine insurance company doing business in this state shall be made annually, containing the amount of such reinsurance, and the names of the companies and respective amounts reinsured in each company in which

Sworn statement to be made annually.

Contents of statement.

Where filed. reinsurance has been contracted for or effected, to the commissioner of insurance of this state; which statements shall be filed by the insurance commissioner in his office, and shall be open to the inspection of every officer or agent of any insurance company authorized to do business in this state: Provided, That no contract for reinsurance now in force shall be affected by the provisions of this act; but no such contract with a company, corporation or association not authorized to do an insurance business in this state shall be renewed after the expiration thereof fixed in the contract; and in case no time has been fixed upon in the contract for its expiration, then this act shall take immediate effect upon such contract for reinsurance: Provided, also, That nothing in this act shall be construed as preventing any insurance company which has lawfully issued a policy of insurance through its resident agent upon property within the state, from reinsuring said risk, or any portion thereof in any authorized company without having said policy of reinsurance signed by a local agent in the state.

Further proviso.

Penalty.

(234) SEC. 3. Every person, company, corporation or association who shall violate any of the provisions of this act shall be liable to a fine of one hundred dollars for every violation, to be sued for and recovered in the name of the people by the attorney general, or prosecuting attorney of the proper county, either by action for debt or by criminal prosecution. And the commissioner of insurance shall cancel the license and revoke the authority of any fire or marine insurance company, person or association that shall violate any of the provisions of this act.

Section 4 repeals "all acts and parts of acts inconsistent with this act."

An Act making it unlawful for foreign insurance companies, legally admitted to do business in the state of Michigan, to place or cause to be placed, except through a duly licensed agent in this state, insurance on property in the state of Michigan, in offices outside of the state of Michigan.

[Act 101, P. A. 1893.]

The People of the State of Michigan enact:

Unlawful to place insurance except through resident agent.

(235) § 5163. SECTION 1. That it shall be unlawful for any insurance company legally authorized to transact business in the state of Michigan, to write, place or cause to be written or placed, except through a duly licensed agent in this state, any policy or contract for indemnity for insurance in the state of Michigan, in or through any such legally authorized company outside of the state of Michigan.

A policy may be written in an agency located outside of the state, but

must be solicited by, delivered by, and the premiums paid to, an agent of the company residing in this state—Letter by Giddings, Com'r, to N. Y. Fire Ins. Co., June 9, 1897.

(236) § 5164. SEC. 2. Any company or companies violating the provisions of the first section of this act, upon notice and satisfactory proof thereof being made to the commissioner of insurance, shall have its or their authority to transact business in the state of Michigan revoked for a period of not less than ninety days, and any insurance company whose license to do business in Michigan may be so revoked by the commissioner of insurance, shall not again be permitted to do business in Michigan until all taxes and penalties due thereon shall have been paid, together with any expenses that may be due under the provisions of this act to the commissioner of insurance. And such company shall only be readmitted to transact business in the state of Michigan upon a complete recompliance with the laws now in force in regard to the admission of insurance companies to do business in Michigan.

Penalty for violation.

When business may be resumed.

(237) § 5165. SEC. 3. When notice of any violation of the first section of this act is received by the commissioner of insurance, it shall forthwith be his duty, in person or by deputy, to visit the office of such company or companies where such contract of insurance may have been written or made, and demand an inspection of the books and records of such company or companies. Any company or companies refusing to exhibit its or their books and records for his inspection, shall be deemed guilty of violating the provisions of this act, and the penalties provided in this act shall immediately be enforced against such company or companies by the commissioner of insurance.

Commissioner of insurance to examine books of companies.

(238) § 5166. SEC. 4. The commissioner of insurance shall receive as a compensation for the services rendered under the provisions of this act, his necessary traveling expenses and ten dollars per diem, which sum shall be charged against the company or companies so visited by him, and collected from such company or companies.

Compensation of commissioner.

(239) § 5167. SEC. 5. Any individual, firm, corporation or association who are unable to procure sufficient indemnity in the companies which have been legally admitted to do business in this state, may file an affidavit with the commissioner of insurance that they are unable to procure all the needed insurance; and in such case they may be authorized to procure such needed additional indemnity from companies not represented in this state: Provided, That such individual, firm, corporation or association shall report to the said commissioner the amount of such policy or policies, together with the amount of premium paid therefor, and pay to the commissioner of insurance a sum of money equal to a tax of three per cent upon the amount of premiums named in said policy or policies.

When additional insurance may be secured from foreign companies.

Proviso.

This and the next section were held to be unconstitutional, as outside of the title of the act, by Ellis, Att'y Gen.

Violation of
this act a mis-
demeanor.
Penalty.

(240) § 5168. SEC. 6. Any individual, firm, corporation or association violating any of the provisions of section five of this act, shall be deemed guilty of a misdemeanor and shall forfeit to the state a sum not less than fifty dollars nor more than one hundred dollars, to be collected by the commissioner of insurance in an action of debt; or such person may be fined by the court a sum not to exceed one hundred dollars or imprisonment in the county jail for a period not exceeding sixty days, or both such fine and imprisonment in the discretion of the court.

An Act to prevent the soliciting or issuing of unauthorized fire or inland marine insurance policies in this state.

[Act 148, P. A. 1881.]

The People of the State of Michigan enact:

When unlaw-
ful for non-
resident com-
panies to
transact
business.

(241) § 5157. SECTION 1. That it shall be unlawful for any person or persons, as agent, solicitor, surveyor, broker, or in any other capacity, to transact or to aid in any manner, directly or indirectly, in transacting or soliciting within this state any insurance business for any person, persons, firm or copartnership who are non-residents of this state, or for any fire or inland navigation insurance company or association, not incorporated by the laws of this state, or to act for or in behalf of any person or persons, firm or corporation, as agent or broker, or in any other capacity, to procure, or assist to procure, a fire or inland marine policy or policies of insurance on property situated in this state, for any non-resident person, persons, firm or co-partnership, or in any company or association without this state whether incorporated or not, without procuring or receiving from the commissioner of insurance the certificate of authority provided for in section twenty-three of an act entitled "An act relative to the organization of fire and marine insurance companies transacting business within this state," approved April third, eighteen hundred and sixty-nine, as amended. Such certificate of authority shall state the name or names of the person, persons, firm or co-partnership, or the location of the company or association as the case may be and that the party named in the certificate has complied with the laws of this state, regulating fire, marine, and inland navigation insurance, and the name of the duly appointed attorney in this state on whom process may be served.

The amendatory act of 1893 is not in conflict with the provisions of the federal constitution prohibiting discrimination against citizens of other states.—*People v. Gay*, 107 / 422.

The clearly expressed intention of this act is to entirely prevent unauthorized companies from taking any risks in this state.—*People v. Howard*,

50/248. It applies to mutual insurance companies organized in other states, as well as to other classes of foreign companies.—*Id.* 247; *Seamans v. Temple Co.*, 105/404. The state has the power to prescribe the conditions upon which individuals shall have the right to transact the business of insurance within its borders, so long as it does not violate the federal constitution by discrimination against citizens of other states.—*People v. Gay*, 107/422. A foreign mutual insurance company, not authorized to do business in this state, cannot maintain a suit to collect assessments due on policies, etc.—*Swing v. Weston Lumber Co.*, 140/344; *Swing v. Cameron*, 145/175.

(242) § 5158. SEC. 2. Any person failing to comply with the provisions of section one of this act, or violating any provisions thereof, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by fine not less than fifty dollars, nor more than five hundred dollars, and in default of payment thereof, shall be imprisoned in the county jail not exceeding six months, or by both such fine and imprisonment in the discretion of the court. Penalty for violation of act.

In prosecutions under this act it is not material to the respondent whether the company had ever done business in the state.—*People v. Howard*, 50/239.

(243) § 5159. SEC. 3. All violations of this act shall be prosecuted in the name of the people by the prosecuting attorney, and all fines collected by him shall be paid into the treasury of the county in which the complaint was filed, to be disposed of according to law. How violation of act prosecuted.

(244) § 5160. SEC. 4. It is hereby made the duty of the commissioner of insurance, or his deputy, on receiving notice in writing or otherwise of any violations of the provisions of this act, to investigate the same, and, if sufficient evidence is found, to notify the attorney general thereof, and he shall cause a complaint to be entered against the person or persons offending. The necessary traveling expenses of the commissioner, under this section, shall be audited by the board of auditors, and paid from the general fund. Duty of commissioner of insurance on receiving notice of violation of act.

(245) § 5161. SEC. 5. In suits brought under this act it shall not be necessary to prove the legal incorporation or association of any corporation or association of individuals, the policies of which have been solicited or issued contrary to the provisions of this act. It shall be sufficient to show that a policy of insurance has been solicited or issued, directly or indirectly, by or through the defendant, in a company or association not authorized to do business in this state. What necessary to prove.

(246) § 5162. SEC. 6. Any fire or marine insurance company or association that may issue, or permit to be issued, any policy of insurance on property in this state, not having authority so to do, shall be deemed to have incurred the penalty of two hundred and fifty dollars. And no such company or association shall thereafter be authorized to do fire or marine insurance business in this state until such penalty shall have been paid into the treasury of the county in which the offense was committed, to be disposed of according to law, and the receipt of the treasurer of the proper county therefor filed in the office of the commissioner of insurance. And no company or association that has, prior to the taking Penalty for issuing policies without authority.

effect of this act, incurred any penalty or forfeiture under the laws of this state, shall be authorized to do business in this state until it shall have fully paid all such penalties and forfeitures.

See *Swing v. Cameron*, 145 / 177.

An Act to empower the licensing of persons to procure policies of fire insurance in this state in companies of other states, or in those of foreign governments not authorized to do business in this state.

[Act 199, P. A. 1895.]

The People of the State of Michigan enact:

Fee for license. (247) § 5151. SECTION 1. That the commissioner of insurance, upon the annual payment of a fee of twenty-five dollars for the use of the state, may issue licenses to the citizens of the state of Michigan, subject to revocation at any time, permitting the person named therein to procure policies of fire insurance on property in this state in foreign insurance companies not authorized to transact business in this state, but which are duly authorized to do business in other states having insurance commissioners.

How to procure license. (248) § 5152. SEC. 2. Before the person named in such license shall procure any insurance in such companies on any property in this state he shall in every case execute and file with the commissioner of insurance an affidavit that he is unable to procure, in companies admitted to do business in the state, the amount of insurance necessary to protect said property, and shall only procure insurance under such license after he has procured insurance in companies admitted to do business in this state to the full amount which said companies are willing to write on said property: Provided, That such licensed person shall not offer any portion of such insurance to any company which is not possessed of cash assets amounting to at least one hundred thousand dollars, which shall be determined by the commissioner of insurance by an inspection of the books and assets of such company, or one which has, within the preceding twelve months been in an impaired condition.

Report to commissioner. (249) § 5153. SEC. 3. Each person so licensed shall keep a separate account of the business done under the license, a certified copy of which account he shall forthwith file with the commissioner of insurance, showing the exact amount of such insurance placed for any person, firm or corporation, the gross premium charged thereon, the companies in which the same is placed, the date of the policies and the term thereof,

and he shall also file a report in the same detail of all such policies canceled and the gross return premiums thereon.

(250) § 5154. SEC. 4. Before receiving such license he shall execute and deliver to the auditor general a bond in the penal sum of two thousand dollars with such sureties as the said auditor general shall approve, with a condition that the licensee will faithfully comply with all the requirements of this law and will file with the commissioner of insurance, in January of each year, a sworn statement of the gross premiums charged for insurance procured or placed, and the gross returned premiums on such insurance canceled under such license during the year ending on the thirty-first day of December next preceding, and at the time of filing such statement will pay into the state treasury a sum equal to four per cent of such gross premiums less such returned premiums reported. Penal bond to be given. *

(251) § 5155. SEC. 5. The commissioner of insurance shall have authority at all times to investigate any alleged violations of this act and he shall report all such investigations to the attorney general of this state, who in case of said violation shall take proceedings to collect all fees or taxes from such licensee, and said commissioner of insurance shall thereupon revoke the license of said licensee. Authority to revoke license.

(252) § 5156. SEC. 6. Any such company with which such insurance shall be placed shall appoint the commissioner of insurance of this state as its attorney in fact in this state, upon whom process can be served. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed. Commissioner of insurance appointed attorney.

An Act making it unlawful for any fire insurance company doing business in the state of Michigan, to limit or restrict its liability by providing in any policy of insurance issued by it that such liability shall be fixed, determined or proportioned by the whole amount of insurance upon the property insured, and to provide a penalty for the violation thereof.

[Act 153, P. A. 1895.]

The People of the State of Michigan enact:

(253) § 5183. SECTION 1. That it shall be unlawful hereafter for any fire insurance company doing business in the state of Michigan to provide by any insurance policy issued by it, or by any clause therein, or by any separate agreement, contract or otherwise, that the liability of said insurance company to the insured shall be limited or restricted by reason of the failure of the said insured to insure the property covered by said policy for any certain amount or proportion of the actual cash value of such property. Unlawful business.

Policy void. (254) § 5184. SEC. 2. Any provision of any policy, or any contract or agreement contrary to the provisions of this act shall be absolutely void, and any insurance company issuing any policy of insurance containing any such provision shall be liable to the insured under such policy in the same manner and to the same extent as if such provision were not therein contained.

May revoke authority to do business. (255) § 5185. SEC. 3. Any company or companies violating the provisions of the first section of this act, upon notice and satisfactory proof thereof being made to the commissioner of insurance, shall have its or their authority to transact business in the state of Michigan revoked for a period of not less than ninety days, and any insurance company whose license to do business in Michigan may be so revoked by the commissioner of insurance, shall not again be permitted to do business in Michigan until all penalties due hereunder shall be paid, together with any expenses that may be due under the provisions of this act to the commissioner of insurance.

Penalty. (256) § 5186. SEC. 4. Any individual, firm, corporation or association, company or companies violating the provisions of section one of this act shall be deemed guilty of a misdemeanor and shall forfeit to the state a sum not less than fifty dollars nor more than one hundred dollars, to be collected by the commissioner of insurance in an action of debt.

An Act to prevent the forfeiture of fire insurance policies by the violation of any condition of the policy when such violation has been without prejudice to the insurer.

[Act 167, P. A. 1897.]

The People of the State of Michigan enact:

When policy not to be void. (257) § 5180. SECTION 1. That no policy of fire insurance shall hereafter be declared void by the insurer for the breach of any condition of the policy if the insurer has not been injured by such breach, or where a loss has not occurred during such breach, or by reason of such breach of condition.

This act covers all policies issued in this state after the act went into effect, irrespective of whether they are Michigan standard policies or not.—*McGannon v. Fire Ins. Co.*, 127/636. It is not unconstitutional.—*Id.* Fire insurance companies being creatures of statute, the legislature may prescribe the forms of their contracts and the limitations in relation to the forfeiture clauses therein.—*Id.* This act does not affect the rule which renders void a policy, under which the valuation is made a warranty, if a substantial overvaluation is given, irrespective of the motive of the insured.—*Shelden v. Fire Insurance Co.*, 124/303. Does not apply to the breach of a condition against procuring additional insurance, when the loss occurred while the additional insurance was in force.—*A. M. Todd Co. v. Fire Insurance Co.*, 137/188. Iron-safe clause.—*See King v. Insurance Co.*, 140/266.

(258) § 5181. SEC. 2. If a building that is insured, whether intended for occupancy by owner or tenant be or become vacant or unoccupied and so remain for ten days, without the consent of the company endorsed on the policy, such vacancy shall not avoid said policy of insurance. Unoccupied building.

(259) § 5182. SEC. 3. There shall hereafter be inserted in, or by stamp or rider affixed upon, the standard form of insurance policies used in this state, after the clause which contains the conditions for a breach of which without the consent of the company endorsed thereon the policy is declared void, a proviso in substance as follows: Provided, A loss shall occur on the property insured while such breach of condition continues or such breach of condition is the primary or contributory cause of the loss. Clause added to standard policy to contain what.

This section is not unconstitutional as an unauthorized limitation upon the scope of the act as expressed in the title.—Boyer v. Grand Rapids Fire Ins. Co., 124 / 455.

The keeping of gasoline on the premises in breach of the conditions in a policy of insurance will not work a forfeiture unless it causes or contributes to a loss.—Brunswick-Balke-Collender Co. v. Northern Assurance Co., 150 / 811.

CHAPTER VII.—MUTUAL FIRE INSURANCE COMPANIES.

An Act to provide for the incorporation of mutual fire insurance companies, and defining their powers and duties; and to repeal chapter ninety-seven of the compiled laws of eighteen hundred and seventy-one and also act number ninety-four of the session laws, eighteen hundred and seventy-one, approved April twelfth, eighteen hundred and seventy-one.

[Act 82, S. L. 1873.]

The People of the State of Michigan enact:

(260) § 7266. SECTION 1. Any number of persons not less than seven, may associate together and form an incorporated company for the purpose of mutual insurance of the property of its members against loss by fire or damage by lightning, which property to be insured may embrace school-houses, town halls, literary and grange halls, society or other fraternal halls, churches, agricultural societies, buildings, dwelling houses, barns accompanying outbuildings, and their contents, farm implements, hay, grain, wool and other products, live stock, wagons, carriages, harness, household goods, wearing apparel, provisions, musical instruments and libraries, being upon farms as farm property, or dwellings, accompanying outbuildings, and such other buildings as are specified in this section, that constitute detached risks in villages and cities, and their contents, as the charters and by Property may insure.

laws of said companies may provide, and belonging to members of said companies.

Am. 1903, Act 220.

The object of this act is clearly expressed in its title.—*Tolford v. Church*, 66 / 440. Companies organized under this act can insure "live stock, wagons, carriages, harness," etc., "being upon farms as farm property;" but, where the by-laws prohibit the insurance of village property within 100 feet of other buildings, a company is not liable for a horse, harness, cushion and blanket, insured as "personal farm property in buildings and on farm," but destroyed in the barn of a village hotel within 100 feet of other buildings.—*Willey v. Farmers' Mut. Ins. Co.*, 52 / 446. The term "stack" has a well-defined meaning and cannot be said to include grain in a mow in a barn.—*Benton v. Farmers' Mut. Fire Ins. Co.*, 102 / 281. Loss of horse by lightning while away from home barn; liability of company for loss.—*Hapeman v. Mut. Fire Ins. Co.*, 126 / 191. Where a company describes the property in its policy as in a village, it is estopped from denying that the place described is a village, because it is neither platted nor incorporated.—*Russell v. Detroit Mut. Fire Ins. Co.*, 80 / 407. Where, by the terms of the insurance contract, the statements in the application are made warranties, a misrepresentation as to the amount of incumbrance on the insured property will avoid the policy.—*Niles v. Farmers' Mut. Fire Ins. Co.*, 119 / 252. The charter and by-laws of a mutual insurance company constitute a part of the contract of insurance.—*Am. Ins. Co. v. Stoy*, 41 / 385. A fire insurance company is not estopped to defend an action on a policy, on the ground of a willful burning of the property by the plaintiff, by the fact of a criminal complaint made against the plaintiff by one of its officers and a discharge of the plaintiff on examination, or by the fact that, with knowledge of the circumstances, it collected an assessment from the plaintiff for the loss.—*Barnett v. Mut. Fire Ins. Co.*, 115 / 247. Authority of board of auditors of mutual fire insurance company.—*Denton v. Mut. Fire Ins. Co.*, 120 / 690. One who becomes a member of a foreign mutual insurance corporation subjects himself to such laws of the government of its situs as affect its powers and obligations.—*Warner v. Delbridge & Cameron Co.*, 110 / 590. A policy of insurance issued upon farm products, farm implements, etc., does not cover the fixtures and utensils of a slaughter-house, conducted by insured, and used in a wholesale meat business in which he is engaged.—*Geraghty v. Insurance Co.*, 145 / 635. Where at the time of becoming a member of a mutual fire insurance company and receiving a policy, plaintiff signed a note for premium which provided that if it was not paid at a certain time the policy should become and remain void until the note should be paid, plaintiff is estopped to contend that the taking of the note was ultra vires, and that his failure to pay did not avoid his policy.—*Hale v. Farmers' Mutual Ins. Co.*, 148 / 453.

Filing of statement, and publication of notice of intention.

(261) § 7267. SEC. 2. Such persons so associating shall file in the office of the commissioner of insurance a statement, signed by all the corporators, stating their purpose of forming a company for the transaction of the business of insurance, as expressed in the first section of this act; which statement shall also comprise a copy of the charter proposed to be adopted by them, and shall publish a notice of such their intention, once in each week for at least five successive weeks, in a public newspaper in the county in which such company is proposed to be located.

The failure to file certain copies of articles of association, as required by law, by a corporation in being, cannot be set up by private persons to avoid corporate contracts. Such failures are, at most, but violations of duty to the state, which the state can punish by forfeiture or penalties.—*Jhons v. People*, 25 / 502.

Corporation may open books to receive propositions, etc.

Business limited.

(262) § 7268. SEC. 3. The persons so associating, after having filed the statement and published the notice as aforesaid, may open books to receive propositions and enter into agreements in manner hereinafter specified, but no company organized under this act shall do any business or take any risks or make any insurance in more than three counties in this state, which counties shall be contiguous, and shall be named and set forth in their charter. No insurance company

organized as aforesaid shall commence business until bona fide agreements have been entered into for insurance with at least one hundred individuals, covering property to be insured to the amount of not less than fifty thousand dollars.

When business may be commenced.

Where the charter makes it the absolute right of farm owners in the county to become members on subscribing the articles and applying for insurance on prescribed terms, the secretary cannot cut off such right by refusing an actual tender from one already a member and an applicant for insurance.—*Gay v. Farmers' Mut. Ins. Co.*, 51/245. A policyholder in a mutual fire insurance company does not become a member, until he receives his policy.—*Russell v. Detroit Mut. Fire Ins. Co.*, 80/407. Policies issued outside of the territorial limits fixed by this act are void.—*Eddy v. Mut. Fire Ins. Co.*, 72/651.

(263) § 7269. SEC. 4. No company formed under this act shall purchase or hold any real estate, except:

Real estate, restrictions as to.

First, Such as shall be necessary for its immediate accommodation in transacting business; or,

Second, Such as shall have been conveyed or mortgaged to the company in good faith, by way of security for debts; or,

Third, Such as shall have been conveyed to the company in satisfaction for debts; or,

Fourth, Such as shall have been purchased at sales, upon judgments, decrees, or mortgages in favor of such company, or held or owned by it. And all real estate obtained by virtue of any provisions of this section, except that mentioned in the first subdivision, shall be sold or disposed of within five years after the title has been perfected in such company, unless the company shall procure a certificate from the commissioner of insurance that the interest of said company will materially suffer by forced sale, in which event the sale may be postponed for such period as the said commissioner of insurance shall direct in said certificate, not to exceed ten years in all.

(264) § 7270. SEC. 5. In addition to the foregoing provisions, it shall be the duty of the corporators of any company organized under the provisions of this act to declare in the charter which is hereby required to be filed, the mode and manner in which the corporate powers given under and by virtue of this act are to be exercised, the mode and manner of electing trustees or directors, who shall be citizens of the county or counties in which the company is doing business, the filling of vacancies, the period for the commencement and termination of its fiscal year; and may prescribe therein the liabilities of the members to be assessed toward defraying the losses and expenses of the company, and the mode and manner of collecting such assessments.

Charter, what declaration to contain.

A member of a mutual fire insurance company is liable, on surrender of his policy, for his proportionate share of all losses and expenses sustained by the company while his policy was in force, including deficiencies arising from failure to collect from irresponsible members their share of an assessment made to meet such expenses and losses.—*Peake v. Yule*, 123/675; *Cavanagh v. Common*, 123/685. The liability of persons insured in companies organized under this act, and its amendments, to pay their proportion of assessments cannot be avoided by any arrangement with the company limiting such liability; nor can it be lessened by any provisions in the articles of association.—*Russell v. Berry*, 51/287. Where the charter and by-laws require an assessment to be prepared by the secretary and signed by

a majority of the board of directors, an unsigned and uncertified paper containing no headings to explain the figures set down cannot be treated as an official assessment.—*Baker v. Cit. Mut. Fire Ins. Co.*, 51/243. A void assessment is no impediment to a new assessment.—*Farmers' Mut. Fire Ins. Co. v. Judge*, 100/606. Forfeiture of insurance, for non-payment of an assessment by a mutual insurance company cannot be sustained, where the assessment was invalid.—*Johnson v. Mut. Fire Ins. Co.*, 110/488. Invalid assessment of mutual fire insurance company and ratification thereof.—*Johnson v. Mut. Fire Ins. Co.*, 110/488. Forfeiture of mutual fire insurance policy by non-payment of assessment.—*Hill v. Mut. Fire Ins. Co.*, 129/141. The acceptance of past due assessments after loss and ordering payment is a waiver of forfeiture for delinquency in paying such assessments.—*Farmers' Mut. F. Ins. Co. v. Bowen*, 40/147. An agreement that policies issued by a company organized hereunder shall be subject to all changes thereafter made in the charter and by-laws is valid.—*Borgards v. Farmers' Mut. Ins. Co.*, 79/440. The cancellation of a policy has no effect upon a right of action previously accrued.—*Baker v. Cit. Mut. Fire Ins. Co.*, 51/243.

Attorney
general to
examine
charter.

Examination
of company.

Proviso.

When may
commence
business.

(265) § 7271. SEC. 6. The charter thus to be filed by the corporation shall be examined by the attorney general, and if found to be in accordance with the requirements of this act, he shall certify the same to the commissioner of insurance, and said commissioner may appoint three disinterested persons residents of the county wherein such corporation is proposed to be formed, who shall certify under oath that it has received and is in actual possession of the premiums or engagements of insurance as the case may be, to the full extent required in this act: Provided, however, The commissioner of insurance may make such examination personally or by his deputy. Copies of such certificate shall be filed in the office of the commissioner of insurance, whose duty it shall then be to furnish the corporation with a certified copy of the charter and certificates aforesaid, which, upon being filed by them in the county clerk's office of the county in which such company is located, shall be their authority to commence business and issue policies, and the same may be used in evidence for or against such corporation.

The provision as to filing the charter and certificate was not designed to avoid contracts, but simply to facilitate the means of proving the corporate existence.—*Jhons v. People*, 25/499. Even if the filing were necessary to corporate existence, a party insured or dealing with the corporation could not question its existence.—*Id.* 502-3; *Cahill v. Insurance Co.*, 2 Doug. 124. The insurance commissioner may be compelled by mandamus to give certified copies.—*Jhons v. People*, 25/502.

Powers of
corporation.

(266) § 7272. SEC. 7. The corporators, or the trustees, or directors, as the case may be, of any company organized under this act, shall have power to make such by-laws, not inconsistent with the constitution or laws of this state, as may be deemed necessary for the government of its officers and members, and the conduct of its affairs.

Where the charter and by-laws of a company are made a part of its insurance, any insurance made in violation thereof is invalid.—*Van Buren v. St. Joseph Co. Vill. Fire Ins. Co.*, 28/397. The by-laws of a mutual insurance company are a part of the insurance contract, as binding upon the member as the policy itself.—*Douville v. Farmers' Mut. Fire Ins. Co.*, 113/165; citing *Becker v. Insurance Co.*, 48/610; *Borgards v. Insurance Co.*, 79/440. Where the charter provides that, at the annual meeting, the members shall determine a limitation of hazards, etc., they may adopt a by-law exempting the company from losses caused by fire from steam-power used on or about the premises of any member.—*Borgards v. Farmers' Mut. Ins. Co.*, 79/440. A provision in the by-laws of a mutual fire insurance company, that any transfer of the property insured without written notice to the company shall invalidate the policy, is reasonable and valid.—*Jaskulski*

v. Mut. Fire Ins. Co., 131/603. Where the by-laws of a mutual company provided that there should be no waiver of conditions without the concurrence of the secretary of the company, duly indorsed, held that his signing an order for payment, knowing the facts, was a waiver.—Farmers' Mut. Ins. Co. v. Garget, 42/289. The power conferred to make by-laws authorizes the adoption of one requiring the secretary to cancel any risk which, in his opinion is unsafe: and such by-law is not contrary to public policy.—*Douville v. Farmers' Mut. F. Ins. Co.*, 113/158. A by-law of a mutual fire insurance company, which provides that all differences between the company and its members, which cannot be settled, shall be submitted to arbitrators, the agreement of a majority of whom shall determine the matter, is not contrary to law, nor invalid as an attempt to oust the courts of jurisdiction.—*Raymond v. Mut. Ins. Co.*, 114/387.

(267) § 7273. SEC. 8. It shall be the duty of the president, or vice president and secretary of each company organized under this act, annually, on the first day of January, or within one month thereafter, to prepare, under their own oath, and deposit in the office of the commissioner of insurance, a statement of the condition of such company on the thirty-first day of December then next preceding, exhibiting the following facts and items, namely:

Annual statements to exhibit.

First, The number of members December thirty-first of the previous year; the number of members added during the year; the number of members who have withdrawn, or whose policies have been canceled during the year, and the number of members belonging to the company;

Memberships.

Second, The amount of property at risk December thirty-first of previous year; the amount of risks added during the year; the amount of risks canceled, withdrawn, or terminated during the year, and the net amount at risk by the company;

Risks.

Third, The amount of premium or deposit notes in force; the amount of cash premiums (or assessments) actually on hand; the amount of outstanding assessments not canceled; the nature and amount of all other resources; the total amount of resources;

Resources.

Fourth, The claims for losses due and payable; the claims for losses not matured; the claims for losses resisted; the nature and amount of all other claims due or accrued, and the total amount of liabilities;

Liabilities.

Fifth, The amount of premiums on deposit notes taken during the year; the amount of cash premiums received during the year; the amount collected on assessments which were levied during the year; the amount collected this year on assessments which were levied in prior years; the amount received from membership or policy fees or from any other sources constituting an expense to be [the] insured; the amount received from percentage on increased or decreased insurance; the income from all other sources; and the total income;

Income.

Sixth, The amount paid for losses during the year, stating the amount of same which was for losses of previous years; the amount of salary and fees paid to officers and directors; the amount of all other expenditures during the year, and the total expenditures during the year.

Expenditures.

The right of a member to withdraw from the company is recognized by this section. When he does so and pays all liabilities to date of withdrawal,

he is not liable to assessments for subsequent losses.—Union Mut. Fire Ins. Co. v. Spaulding, 61/77; Farmers' Mut. Fire Ins. Co. v. Otto, 96/558; Farmers' Mut. Fire Ins. Co. v. Judge, 100/606.

- (268) § 7274. SEC. 9. A copy of every such sworn statement and report shall in said month of January be filed in the office of the county clerk of the county where the principal business office of the company is located, and another copy thereof shall be published at least twice during said month in a newspaper printed in such county; and the persons or officers making such sworn statement or report to be filed in the office of the commissioner of insurance as aforesaid, shall make and annex thereto and file therewith in the office of the commissioner of insurance an additional affidavit, showing that such report and statement has been published, and a copy thereof filed in the office of the county clerk as above provided; and if upon examination of such annual statement or the examination of the company hereafter provided for it shall appear to the commissioner of insurance that the losses and expenses of any company chartered under this act have during the year exceeded the cash premiums and assessments collected, to such an extent as to imply a doubt in the mind of said commissioner of insurance as to the solvency of said company and its ability to pay all its losses and other debts, it shall be the duty of said commissioner of insurance to serve a notice upon the officers of such mutual company, requiring them, at the expiration of sixty days from the date of such notice, to discontinue the issuing of policies and proceed to wind up its business, unless within that time the directors of such company shall collect assessments and pay such losses and debts.
- (269) § 7275. SEC. 10. In case any company shall continue to issue policies after the expiration of the sixty days they having failed to comply with the requirements of the commissioner of insurance in said notice, or if any company having failed to make their annual report to the commissioner of insurance at the time and in the manner herein prescribed therefor, shall thereafter issue any policy or make any insurance; or if such report to the commissioner of insurance shall be imperfect or contain false statements, or shall be so made as fraudulently to conceal the actual condition or responsibility of the company, the directors and officers of such company shall be, jointly and severally, personally liable and responsible for any losses that may thereafter occur in said company, or to any person insured therein or thereby; and the persons sustaining such losses may sue for and recover the amount of such losses from such directors and officers, or from any one or more of them.
- (270) § 7276. SEC. 11. It shall be the duty of the commissioner of insurance, on or before the first day of December in each year, to furnish all companies organized under this act, with blanks for the purpose of making thereon the statement hereby required to be filed, which blanks shall be

Annual statement filed with county clerk.

Publication of.

Notice to wind up business, when to be made.

Directors and officers personally liable.

Commissioner to furnish blanks for statements.

used by the proper officers in making said statements, which statements shall be full and in accordance with the requirements heretofore set forth; and he may, from time to time, make such changes in the form of such statements as shall seem to him best adapted to elicit from the companies a true exhibit of their condition in respect to the several points hereinbefore enumerated. And in case the officers or directors of any company shall fail, neglect, or refuse to perform any of the duties required of them by law, within the time and in the manner prescribed for the performance of such duty, or shall knowingly make or permit any false or imperfect statement to be made in any annual or other report or statement required to be made by them or by any of them, or by the company to the commissioner of insurance, or shall do or aid or assist in doing anything which any such company is hereby prohibited from doing, or shall in any manner violate any of the provisions of this act, or shall aid in or consent to any violation of any of the provisions of this act, then and in every such case every director or officer or person so offending shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding one thousand dollars, nor less than five hundred dollars, or by imprisonment in the county jail not less than three months nor more than one year, or by both such fine and imprisonment, in the discretion of the court; and when such failure, neglect, or refusal on the part of the officers of any company is known to the commissioner of insurance, it shall be his duty to notify the prosecuting attorney of the county where such company is located, whose duty it shall then be to commence legal proceedings against such officers to enforce the penalty hereby imposed.

Failure of
officers to
comply with
law.

Penalty.

Prosecuting
attorney,
duty of.

(271) § 7277. SEC. 12. Suits at law may be maintained by corporations formed under this act against any of its members for any cause relating to the business of such corporation; also suits at law may be prosecuted and maintained by any member against such corporations for claims which may have accrued if payments are withheld more than sixty days after such claim shall have become due. The articles of association may provide for a classified rating of risks according to hazard, and the articles of association or the by-laws may provide for the receiving of applications or agreements from members for insurance with or without taking from the insured any premium note or notes. It shall be lawful for any mutual insurance company organized under the provisions of this act to make assessments upon the agreements, or policies issued thereon, or upon the premium note or notes, as the case may be, pro rata in accordance with the percentage fixed in the classification to which the risk belongs, and all such premium note or notes or agreements or assessments shall be a lien upon the property insured to the amount of such note, notes, agreements, assessments, costs and interest due thereon.

Suits at law.

Classified
rating;
premium
notes.

Assessments.

Lien upon
property
insured.

Am. 1909, Act 189.

A by-law, assented to in writing by each applicant, providing for the submission of differences to arbitration does not contravene this section.—*Raymond v. Farmers' Mut. Fire Ins. Co.*, 114/386. A member of a mutual fire insurance company obligates himself to pay a proportionate share of the losses and expenses for the period during which he is insured; and such liability has not been covered by assessment. It continues, although he may have ceased to be a member.—*Farmers' Mut. Fire Ins. Co. v. Judge*, 100/606. The receipt of past due assessments after a loss and the direction to pay the loss constitute a waiver of any forfeiture incurred by delay in paying assessments.—*Farmers' Ins. Co. v. Bowen*, 40/147. Prematurity of action against company.—*Baptist Church v. Insurance Co.*, 119/203. Lien of this kind, where the amount, inclusive of costs, is less than \$100, is not within the jurisdiction of the chancery courts.—*Peake v. Bradley*, 121/182.

Bodies corporate.

(272) § 7278. SEC. 13. All companies formed under this act shall be deemed bodies corporate and politic in fact and in name, and shall be subject to all the provisions of the statute in relation to corporations so far as they are applicable.

Companies may amend articles of association.

(273) § 7279. SEC. 14. Any such company formed under this act shall have power to amend its articles of association or charter at the regular annual meeting held according to the provisions of said charter or articles of association, and upon giving a notice of an intention so to do, and of the time and place of meeting for that purpose; such notice shall be published for five successive weeks in some newspaper of general circulation published weekly, in the county or counties where such company does business. Any company heretofore organized under this act may amend its charter or articles of association at a special meeting called for that purpose, in accordance with the provisions of its charter, and by giving the notice of intention as provided in this section. Said amendments shall be submitted to the attorney general, and his certificate of compliance with the law obtained; and said amendments shall be filed in the office of the commissioner of insurance, and also with the clerk of the county in which the office of the company is located.

Amendments to be submitted to attorney general.

Proceedings in case of failure to pay up outstanding claims.

(274) § 7280. SEC. 15. If any insurance company, organized or to be organized under this act, shall not within sixty days after the commissioner of insurance shall have given the notice required by section nine, pay up and discharge all outstanding claims against such company, it shall be the duty of the commissioner of insurance to file a petition in the circuit court for any county where such company has transacted business, either in vacation or term time, stating that the sixty days within which such company was required to proceed to wind up its business have expired, and that there are outstanding claims against such company, a copy of which said petition shall be published for three successive weeks in a public newspaper printed in such county, or if no newspaper is published in such county, then such notice shall be published in any paper published nearest the office of such company.

Commissioner to visit and examine into affairs of companies.

(275) § 7281. SEC. 16. It shall be the duty of the commissioner of insurance, as often as once in each year, in person or by deputy, to visit and examine into the affairs of any

mutual insurance company now organized or hereafter to be organized under this act; and it shall be the duty of the officers or agents of any such company to cause their books to be opened for inspection, and otherwise to facilitate such examination so far as it may be in their power to do; and for that purpose the said commissioner of insurance shall have power to examine, under oath, the officers and agents of any company relative to the standing and condition of said company. And all necessary expenses of such examination shall be paid by each company so examined.

As to the examination of the affairs of insurance companies, see note to section 1 of this compilation.

(276) § 7282. SEC. 17. At any time after the publication required by section fifteen of this act, the commissioner of insurance may appear in said court, in person or by counsel, and move for the appointment of a receiver for said company; and the said company may also be heard, and, upon such hearing, the report of such company, filed in the office of the commissioner of insurance, shall be conclusive evidence of the facts therein stated, and of the liability of such company, unless such company shall show that they have since paid and discharged the liabilities; and if upon the hearing thereof it shall appear to such court that the statements in such petition are materially true, the said court shall appoint a receiver for such company, who shall be and is hereby empowered to take possession of all books and papers and personal property of said company, and shall ascertain the amount due from said company on property insured, and shall at once proceed to assess upon all of the members and persons insured in such company, such sums of money as will in the aggregate be sufficient to pay all the losses and liabilities of said company, together with the services and expenses of such receiver, according and in proportion to the amount of their insurance or interest in such company; and upon payment of such assessment, the said members shall be discharged of and from all former assessments made by such company; and it shall be the duty of said receiver to give notice of such assessment by publishing in some weekly newspaper printed in the county or counties where the office or offices of the company are located, or in the county where such proceedings were had, once in each week for three successive weeks, a general notice, stating therein the aggregate amount assessed in said company; and upon application he shall furnish to any person assessed a statement showing the amount of his assessment; and in case any member or person insured so assessed shall neglect for thirty days after such publication to pay the amount of such assessment to said receiver, he may sue for the same in the circuit court wherein he was appointed, and in such cases service may be made upon the persons sued in any county in the state; or at his election the receiver may sue in the circuit court for

Receiver, appointment of.

Duties of receiver.

the county wherein the person assessed, or who is liable to pay such assessment, may reside or be, in an action of debt or assumpsit, in his own name, as receiver of said company; and upon such suit said assessment shall be prima facie evidence of the regularity and correctness of all proceedings up to and including the assessment, and of the receiver's right to recover therein the amount assessed, with costs. If the amount realized by such receiver be insufficient to pay the losses and liabilities therein, and the services and expenses aforesaid he shall proceed to make a second assessment, and such further or other assessments as may be necessary to realize the same, in the same manner and with the like effect as is herein provided for making the first assessment; and shall sue for and collect the same in the same manner. If, after paying the losses and liabilities of such company, and the services and expenses aforesaid, there shall remain any funds in the hands of the receiver, the same shall be paid back to the persons assessed, in just and equal proportions to the sums contributed and paid by them.

Second assess-
ment may be
made.

Surplus
refunded.

The authority to prescribe the liabilities of the members to be assessed relates to the ordinary exercise of corporate powers, while the company is solvent and carrying on business in the ordinary way; but the statute prescribes its own rule for assessments after the corporation has passed into the hands of a receiver and this rule cannot be changed or limited by the charter or by-laws.—*Russell v. Berry*, 51/287; *Macklem v. Bacon*, 57/337. But an agreement that liability should be limited to the amount of the premium notes was sustained, on the ground that such was the understanding of all members of the company.—*Macklem v. Bacon*, 57/337. Members of a mutual fire insurance company, if liable at all for assessments made by a receiver, can be made so only by the contract existing between them and the company, which contract is evidenced by the application and policy.—*Wardle v. Hudson*, 96/432. The holder of a canceled policy is not liable to assessment by the receiver, if he has paid all liabilities up to the time of cancellation.—*Telford v. Church*, 66/431. The authority of the receiver to make assessments appears conclusive. The language is explicit. No exception is made or qualification expressed. Nor is any discretion given. The terms are imperative.—*Russell v. Berry*, 57/337. A receiver derives his authority to make assessments directly from the statute. Such assessments are not conclusive, but are prima facie evidence of regularity and of right to recover.—*Wardle v. Townsend*, 75/385. In making assessments, the receiver is invested with a liberal discretion, which will not be interfered with unless abused.—*Id.* The evident object of the provision for suit in the circuit court was to authorize the receiver to sue for sums less than \$100 in the circuit court and to recover costs in such suits.—*Bacon v. Clyne*, 70/185; *Wardle v. Townsend*, 75/396. The statute of limitations does not begin to run against a member's liability for an assessment, until the assessment is made.—*Peake v. Fuller*, 123/684.

Account of
receipts, etc.

Bond of
receiver.

(277) § 7283. SEC. 18. Such receiver shall keep an accurate account of all moneys or other property received by him, and shall pay over all moneys by him collected, and the proceeds of all personal property pro rata upon said liabilities, after deducting therefrom for his services and expenses (if the court making such appointment shall deem the amount thereof reasonable). The court making such appointment may also require such receiver to give a bond, with sufficient sureties, in such penal sum as such court shall determine, which said bond shall run to the people of the state of Michigan, and be conditioned for the faithful discharge of his duties as such receiver and be approved by the clerk or judge of such court; and said court may from time to time require such receiver to make a report, and upon the

coming in of his final report, showing a full and faithful performance of such trust, may discharge him from all further liability. It shall also be the duty of such receiver annually, during the month of January in each year, to make a report to the commissioner of insurance, showing the condition and affairs of such receivership on the thirty-first day of December preceding. This act shall be construed as applying to all receivers heretofore appointed, as well as to receivers which may hereafter be appointed under this act.

Report of, to court.

Report to commissioner of insurance.

(278) § 7284. SEC. 19. Every mutual fire insurance company heretofore organized under the laws of this state shall conform to all the provisions of this act; but no such company whose organization, articles of association, and by-laws already conform to the provisions hereof shall be required to reorganize.

Companies heretofore organized.

Sec. 20 repeals the laws mentioned in the title of this act. Sec. 21 was an "immediate effect" section.

(279) § 7285. SEC. 22. No company shall hereafter be organized under the provisions of this act for the purpose of insuring property other than that mentioned in section one hereof; nor shall any company be organized hereafter under the provisions of this act with authority to take any risks or make any insurance in more than three counties of this state, which counties shall be contiguous and shall be named and set forth in its charter: Provided, That nothing herein contained shall affect in any manner corporations now organized and doing business under this act.

Companies hereafter organized, limitations.

Proviso, corporations now organized.

Am. 1909, Act 188.

(280) § 7286. SEC. 23. Any mutual fire insurance company of this state having no capital stock and lawfully doing business at the time this section shall take effect, or organized under the act of which this is amendatory, may at any time within two years next preceding the expiration of its charter, by a two-thirds vote of the members present at any annual meeting, or at any special meeting called for the purpose, determine to extend its corporate existence for a period not exceeding thirty years from the date of the expiration of its charter and thereupon the corporate existence of said mutual fire insurance company shall be extended as so determined, and such determination shall be deemed a reorganization of such company, and it shall succeed to all the rights and be subject to all the liabilities of the corporation so reorganized, and it shall not be necessary to change the policies or books or mode of the doing of the business of the said company: Provided, That a statement of the proceedings to reorganize such company by the making of such determination, duly certified by the officers of the meeting so determining, shall be presented to the attorney general for his approval and be approved by him and such certified proceedings and approval be filed in the office of the commis-

Extension of corporate existence.

Proviso requiring statement of proceedings to be presented to attorney general.

Further
proviso as to
notice to
members.

sioner of insurance of this state before the expiration of the term of the corporate existence of such mutual fire insurance company: And provided further, That a written or printed notice of such determination shall be mailed to each member of said company at least sixty days before the expiration of the charter, and that it shall be the right of any member of the company who shall give notice to the secretary before the time of the expiration of said charter, to withdraw from said company at that time, he remaining liable for his equitable share of the losses incurred to that date or entitled to his equitable share of any surplus fund which, after the payment of all debts and liabilities to that date, may remain in the hands of the treasurer of the company, as the case may be.

Company may
reorganize.

(281) SEC. 24. Any mutual fire insurance company of this state whose charter has expired by limitation, may, within the period of eighteen months after the date of the expiration of such charter, or within four months after being notified by the commissioner of insurance of the expiration of the charter of the said company, by a vote of two-thirds of the members present at any special meeting called by the president and secretary of said company for the purpose, determine to reorganize and extend its corporate existence for a period of not exceeding thirty years from the date of the expiration of its said charter. The notice of such special meeting shall be mailed to each member of said company at least fifteen days before the date fixed for such meeting, and thereupon the corporate existence of said mutual fire insurance company shall be extended as so determined, and such determination shall be deemed a reorganization of such company, and it shall succeed to all the rights and be subject to all the liabilities of the corporation so reorganized, and it shall not be necessary to change the policies or books or mode of the doing of the business of said company, and all the acts and doings of the officials of said company and the business and proceedings thereof done in the interim, between the date of the expiration of such charter and such determination, the character of which would have been legal and valid if done before such expiration, is hereby legalized and deemed legal and valid, and the officers of said company at the time of such determination may continue to hold office until the next regular annual meeting of said company thereafter, as fixed by charter or by-laws of said company: Provided, That a statement of proceedings to reorganize such company by the making of such determination, duly certified by the president and secretary of said company, at said meeting so determining, shall be presented to the attorney general for his approval and be approved by him, and such certified proceedings and approval be filed in the office of the commissioner of insurance of this state, and also in the office of the county clerk of the county in which the principal office of the company is located, within sixty days after such ap-

Notice of
special
meeting.

Proviso.

proval: And provided further, That a written or printed notice of such determination shall be mailed to each member of said company within ninety days after such approval by the attorney general as aforesaid, and that it shall be the right of any member of said company who shall give notice to the secretary thereof within thirty days after the mailing of such notice, to withdraw from said company at that time, he remaining liable for his equitable and proportionate share of the losses incurred to that date, and entitled to his equitable and proportionate share of any surplus fund, which after the payment of all debts and liabilities of said company to that date, may remain in the treasury of said company: And provided further, That from and after the date of the approval of this act all companies organized and doing business under and by virtue of this chapter shall print upon all policies thereafter issued by said companies, the date to which said company is chartered to do business.

Further
proviso.

Members may
withdraw.

Further
proviso, date
of charter.

Added 1905, Act 2; Am. 1907, Act 16.

An Act to provide for the incorporation of mutual fire insurance companies, limited, and defining their powers and duties.

[Act 262, P. A. 1895.]

The People of the State of Michigan enact:

(282) § 7287. SECTION 1. That any number of persons, not less than seven, may associate together and form an incorporated company for the purpose of mutual insurance of the property of its members, against loss by fire or damage by lightning, which property to be insured may embrace school-houses, literary and grange halls, churches, agricultural societies' buildings, dwelling houses, barns, accompanying outbuildings and their contents, farm implements, hay, grain, wool, and other products, live stock, wagons, carriages, harness, household goods, wearing apparel, provisions, musical instruments, and libraries, being upon farms as farm property, or dwellings, accompanying outbuildings, and such other buildings as are specified in this section, that constitute detached risks in villages and cities, and their contents, as the charters and by-laws of said companies may provide, and belonging to members of said companies; and all holders of policies of such incorporated companies, whether residing within or without this state, are thereby members of the company issuing such policy, which policy need not be in the form of words prescribed under the act to establish a uniform policy of insurance.

Seven or more
persons may
incorporate.

Statement to
be filed with
commissioner
of insurance.

(283) § 7288. SEC. 2. Such persons so associating shall file in the office of the commissioner of insurance a statement, signed by all the incorporators stating their purpose of forming a company for the transaction of the business of insurance as expressed in the first section of this act, which statement shall also comprise a copy of the articles of association proposed to be adopted by them; and shall publish a notice of such their intention, once in each week for at least five successive weeks, in a public newspaper published in the county in which the office of such company is proposed to be located.

May open
books and
receive propo-
sitions.

(284) § 7289. SEC. 3. The persons so associating, after having filed the statement and published the notice as aforesaid, may open books to receive propositions and enter into agreements in manner hereinafter specified, and in accordance with the articles of association of said company: Provided, however, That insurance companies organized as aforesaid shall not commence business until bona fide agreements have been entered into with each for insurance with at least ten individuals, covering property to be insured to the amount of not less than fifty thousand dollars.

May hold cer-
tain real
estate.

(285) § 7290. SEC. 4. The companies formed under this act shall not purchase or hold any real estate except:

First, Such as shall be necessary for their immediate accommodation in transacting business; or

Second, Such as shall have been conveyed or mortgaged to the companies in good faith by way of security for debts; or

Third, Such as shall have been conveyed to the companies in satisfaction for debts; or

Fourth, Such as shall have been purchased at sales upon judgments, decrees, or mortgages in favor of said companies, or held or owned by them. And all real estate obtained by virtue of any provisions of this section, except that mentioned in the first subdivision, shall be sold or disposed of within five years after the title has been perfected in any such company, unless the company shall procure a certificate from the commissioner of insurance that the interest of said company will materially suffer by forced sale in which event the sale may be postponed for such period as the said commissioner of insurance shall direct in said certificate, not exceeding ten years in all.

Duty of cor-
porators.

Articles of
association to
be filed, etc.

(286) § 7291. SEC. 5. It shall be the duty of the corporators of any company organized under the provisions of this act to declare in its articles of association, which is hereby required to be filed with and approved by the commissioner of insurance, the mode and manner in which the corporate powers given under and by virtue of this act are to be exercised; the mode and manner of choosing officers, trustees, or directors, who shall each and all of them be residents of this state; the filling of vacancies; the period for the commencement and termination of its fiscal year; and shall prescribe the liabilities of the members to be assessed towards defraying the losses and expenses of such companies, and the

mode and manner of collecting such assessments, and the members shall be liable to assessment for all liabilities of the company to the extent declared in the articles of association; and the liability of the persons insured in such companies and the members thereof, for the losses or expenses of such companies, shall not exceed the liabilities assumed by such persons when taking such insurance or by such member when joining such company, and on payment in full by such person or member of the amount assumed or agreed to be paid on taking such insurance, or on becoming a member of such company, the said persons so insured as aforesaid and the said members of such companies shall be released and absolved from any and all further liability, for such losses or expenses.

Liability of
persons in-
sured.

(287) § 7292. SEC. 6. The articles of association thus to be filed by any such corporation shall be examined by the attorney general, and if found to be in accordance with the requirements of this act, he shall certify the same to the commissioner of insurance, and said commissioner, in person or by his deputy, or by the appointment of some other disinterested person for that purpose, shall, if he approve the articles of association, examine and certify under oath that any such company has received and is in actual possession of the premiums or engagements of insurance, as the case may be, to the full extent required by this act. Copies of such certificate shall be filed in the office of the commissioner of insurance, whose duty it shall then be to furnish the corporation with a certified copy of the charter and of the certificates aforesaid, which, upon being filed by them in the county clerk's office of the county in which the office of any such company is located, shall be their authority to commence business and to issue policies of insurance, and the same may be used in evidence for or against said corporation. And suits may be brought against any such company in any county in this state in which it shall do business or take risks in which the plaintiff resides, or in the county where the principal office of the company is located.

Articles of
association to
be examined
by attorney
general.

Copies of
certificate of
approval to be
filed with
commissioner.

Duty of
commissioner.

(288) § 7293. SEC. 7. The incorporators, trustees or directors, as the case may be, of any company organized under this act, shall have power to make such by-laws not inconsistent with the constitution or laws of this state, as may be deemed necessary for the government of its officers and members, and the conduct of its affairs, but such by-laws shall not be operative until filed with and approved by the commissioner of insurance, who shall furnish the company with a certified copy thereof.

By-laws.

Approval, etc.

(289) § 7294. SEC. 8. Any company formed under this act shall be deemed a body corporate and politic, in fact and in name, and shall be subject to all the provisions of the statute in relation to corporations, so far as they are applicable.

Body corpo-
rate and
politic.

(290) § 7295. SEC. 9. Any such company formed under this act shall have power to amend its articles of association

Power to
amend articles
association.

Amendments
to be submit-
ted to attorney
general.

Copies, where
filed.

Suits at law
may be main-
tained against
members.

Annual state-
ment to be
filed with
commissioner.

What to
contain.

at the regular annual meeting held according to the provisions of said articles of association and upon giving notice of such intention by printed circular, or postal card, or letter, to be addressed and sent by mail at least three weeks previous to such meeting to all the members, officers, trustees and directors of such company. Said amendments so had shall be submitted to the attorney general and his certificate of compliance with the law obtained, and a copy of said amendments with said certificates shall be filed in the office of the commissioner of insurance, and if he approve of such amendments shall make a certified copy thereof and deliver the same to the company, which upon being filed with the county clerk of the county in which the office of such company is located, shall become operative.

(291) § 7296. SEC. 10. Suits at law may be maintained by corporations formed under this act against any of its members, for any cause relating to the business of such corporation; also suit at law may be prosecuted and maintained by any member against such corporations for claims which may have accrued, if payments are withheld more than sixty days after such claims shall have become due. The articles of association and by-laws of any such company organized under the provisions of this act may provide for the receiving of applications or agreements from its members for insurance, with or without taking from the insured any premium note or notes, and it shall be lawful for such mutual insurance companies, limited, to make assessments upon such agreements, or policies issued thereon, or upon the premium note or notes, as the case may be, pro rata, according to the amount of such agreement or policies, or premium note or notes for the payment of the losses and expenses incurred by such companies, and all such premium notes, or agreements, or assessments, shall be a lien upon the property insured to the amount of such note, notes, agreements, assessments, costs and interest due thereon.

(292) § 7297. SEC. 11. It shall be the duty of the president, or vice president, and secretary of any such company organized under this act, annually, on the first day of January, or within one month thereafter, to prepare under their own oath and deposit in the office of the commissioner of insurance, a statement of the condition of such company on the thirty-first day of December then preceding, exhibiting the following facts and items, namely:

First, The number of members belonging to the company; the number of members added during the year; the number of members who have withdrawn, or whose policies have been canceled during the year;

Second, The amount of property at risk December thirty-first of the previous year; the amount of risks added during the year; the amount of risks canceled, withdrawn or terminated during the year, and the net amount at risk by the company;

Third, The amount of premium or deposit notes, or agreements in force; the amount of cash premiums or assessments actually on hand; the amount of outstanding assessments not canceled; the nature and amount of all other resources; the total amount of resources;

Fourth, The claims of losses due and payable; the claims for losses not matured; the claims for losses resisted; the nature and amount of all other claims, due or accrued, and the total amount of liabilities;

Fifth, The amount of premiums on deposit notes taken during the year; the amount of cash premiums received during the year; the amount collected on assessments which were levied during the year; the amount collected during the year on assessments which were levied in prior years; the amount received from membership or policy fees, or from any other sources, constituting an expense to the insured; the amount received from percentage on increased or decreased insurance; the income from all other sources, and the total income;

Sixth, The amount paid for losses during the year, stating the amount of same which was for losses of previous years; the amount of salary and fees paid to other officers and directors; the amount of all other expenditures during the year, and the total expenditures during the year;

Seventh, The commissioner of insurance may, from time to time, [make] making any change in the form of annual reports to be made by such companies, to elicit further information regarding the condition of the company.

(293) § 7298. SEC. 12. A copy of every such sworn statement and report shall in said month of January be published at least twice in said month in a newspaper published in the county where the business office of the company is located; also a copy of such sworn statement shall be filed in the office of the county clerk of such county where the office of the company is located; also a copy of such sworn statement with an additional affidavit showing that the same has been published, and that the same has been filed in the office of the county clerk as herein provided, shall be filed in the office of the commissioner of insurance; and if upon examination of such annual statement, or of the affairs of the company, it shall appear to the commissioner of insurance that the losses and expenses of any company organized under this act have, during the year, exceeded the cash premiums and assessments collected to such an extent as to imply a doubt in the mind of said commissioner of insurance, as to the solvency of said company, and its ability to pay all its losses and other debts, it shall be the duty of said commissioner of insurance to notify the officers of said company to, at the end of sixty days from the date of such notice, discontinue the issuing of policies, and to suspend its business until such time as that the officers and directors of said company shall collect assessments, and pay such losses and debts, and sat-

Copy of
statement and
report to be
published.

Copy to be
filed with
county clerk.

Duty of
commissioner.

Neglect of duty a misdemeanor.	isfy said commissioner of insurance of the solvency of such company.
Penalty.	(294) § 7299. SEC. 13. In case the officers or directors of such company shall neglect or refuse to perform any of the duties required of them by this act, or shall knowingly make or permit to be made any false or imperfect statement in any annual or other report required to be made by them; or shall knowingly aid in, or formally consent to, any violation of any of the provisions of this act; then in such case every such director, officer or person so offending shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to punishment by fine not exceeding five hundred dollars or to imprisonment not exceeding one year; and in case such neglect or refusal on the part of such officers or directors to conform to and be guided by the requirements of this act is known to the commissioner of insurance, it shall be his duty to notify the prosecuting attorney of the county where the office of such company is located, whose duty it shall then be to commence legal proceedings against such officers or directors to enforce the penalty hereby imposed.
Books to be open to the examination of officers and members.	(295) § 7300. SEC. 14. The books of any such company shall be open to the examination of any and all the officers and of the members at any time; also to the inspection of the commissioner of insurance in person, or by deputy, whenever he shall deem an examination necessary.
When receiver to be appointed.	(296) § 7301. SEC. 15. In case of insolvency, neglect or refusal of any such company to meet its liabilities and discharge all outstanding claims against such company, the commissioner of insurance may in person or by counsel appear in the circuit court of the county where the office of such company is located, and move for the appointment of a receiver for said company, and the company may also be heard upon such motion, and if it shall appear to the satisfaction of the court that the affairs of the company are in such condition that such motion for the appointment of a receiver should be granted, the said court shall then and there appoint a receiver for such company, who shall be empowered to take possession of all books, papers, moneys, and personal property of such company, and shall at once proceed to the collection of funds and the liquidation of the liabilities of such company, in accordance with the provisions of this act and in conformity to the charter and by-laws of such company. Such receiver shall keep an accurate account of all moneys or other property received by him; he shall pay over all moneys by him collected and the proceeds of all personal property pro rata upon the liabilities of the company, retaining therefrom for his services and expenses such an amount as the court may deem reasonable; he may sue for and recover any legal assessment made upon the policy holders or members of the company, and he shall use due diligence in the settlement of the affairs of the company, and
Duties of receiver.	

make his final report to the court making the appointment from whence he shall get his formal discharge.

An Act to authorize the incorporation of a Michigan millers' mutual fire insurance company.

[Act 157, P. A. 1881.]

The People of the State of Michigan enact:

(297) § 7302. SECTION 1. That any number of owners or operators of flouring mills or grist or feed mills, not less than ten, being residents of the state, may associate together and form an incorporated company for the purpose of mutual insurance of property against loss or damage by fire or lightning, which property, primarily to be insured, shall consist of flouring, grist, or feed mills, with the accompanying machinery and stock, or secondarily may include elevators, warehouses, stores, storehouses, or outbuildings and their contents, or manufactories of flour, meal, feed, or other products of the country, and the machinery necessary to run the same, and the stock connected with the manufacture or conduct of such business; and all holders of policies of such incorporated companies, whether residing within or without this state, are thereby members of the company issuing such policy, which policy need not be in the form of words prescribed under the act to establish a uniform policy of insurance; but no company organized under the provisions of this act shall be entitled to the benefit of these amendments until articles of association and by-laws in accordance therewith have been adopted by a regular or special meeting of such company, due notice of which shall have been mailed to the members at least fifteen days before the date of such meeting.

May incorporate.

Purpose, etc.

Members.

Form of policy.

Exceptions.

(298) § 7303. SEC. 2. Such persons so associating shall file in the office of the commissioner of insurance a statement, signed by all the incorporators, stating their purpose of forming a company for the transaction of the business of insurance as expressed in the first section of this act; which statement shall also comprise a copy of the articles of association proposed to be adopted by them; and shall publish a notice of such, their intention, once in each week for at least five successive weeks, in a public newspaper published in the county in which the office of such company is proposed to be located.

Articles of association, where filed.

(299) § 7304. SEC. 3. The persons so associating, after having filed the statement and published the notice as aforesaid, may open books to receive propositions and enter into agreements in manner hereinafter specified and in accord-

When books may be opened.

Proviso,
when may
commence
business.

ance with the articles of association of said company: Provided, however, That insurance companies organized as aforesaid shall not commence business until bona fide agreements have been entered into with each for insurance with at least ten individuals, covering property to be insured to the amount of not less than fifty thousand dollars.

For what pur-
pose may hold
real estate.

(300) § 7305. SEC. 4. The companies formed under this act shall not purchase or hold any real estate except:

First, Such as shall be necessary for their immediate accommodation in transacting business; or,

Second, Such as shall have been conveyed or mortgaged to the companies in good faith by way of security for debts; or,

Third, Such as shall have been conveyed to the companies in satisfaction for debts; or,

Fourth, Such as shall have been purchased at sales upon judgments, decrees, or mortgages in favor of said companies, or held or owned by them. And all real estate obtained by virtue of any provisions of this section, except that mentioned in the first subdivision, shall be sold or disposed of within five years after the title has been perfected in any such company, unless the company shall procure a certificate from the commissioner of insurance that the interest of said company will materially suffer by forced sale, in which event the sale may be postponed for such period as the said commissioner of insurance shall direct in said certificate, not exceeding ten years in all.

What articles
of association
to set forth.

(301) § 7306. SEC. 5. It shall be the duty of the corporators of any company organized under the provisions of this act to declare in its articles of association, which is hereby required to be filed with and approved by the commissioner of insurance, the mode and manner in which the corporate powers given under and by virtue of this act are to be exercised; the mode and manner of choosing officers, trustees, or directors, who shall each and all of them be residents of this state; the filling of vacancies; the period for the commencement and termination of its fiscal year; and shall prescribe the liabilities of the members to be assessed towards defraying the losses and expenses of such companies, and the mode and manner of collecting such assessments, and the members shall be liable to assessment for all liabilities of the company to the extent declared in the articles of association.

Attorney gen-
eral to exam-
ine articles of
association,
etc.

(302) § 7307. SEC. 6. The articles of association thus to be filed by any such corporation shall be examined by the attorney general, and if found to be in accordance with the requirements of this act he shall certify the same to the commissioner of insurance, and said commissioner in person, or by his deputy, or by the appointment of some other disinterested person for that purpose, shall, if he approve the articles of association, examine and certify under oath that any such company has received and is in actual possession of the premiums or engagements of insurance, as the case may be,

to the full extent required by this act. Copies of such certificate shall be filed in the office of the commissioner of insurance, whose duty it shall then be to furnish the corporation with a certified copy of the charter and of the certificates aforesaid, which, upon being filed by them in the county clerk's office of the county in which the office of any such company is located, shall be their authority to commence business and to issue policies of insurance, and the same may be used in evidence for or against said corporation. And suits may be brought against any such company in any county in this state in which it shall do business or take risks in which the plaintiff resides, or in the county where the principal office of the company is located.

Where articles
filed.

Where suits
may be
brought.

(303) § 7308. SEC. 7. The corporators, trustees, or directors, as the case may be, of any company organized under this act, shall have power to make such by-laws, not inconsistent with the constitution or laws of this state, as may be deemed necessary for the government of its officers and members, and the conduct of its affairs, but such by-laws shall not be operative until filed with and approved by the commissioner of insurance, who shall furnish the company with a certified copy thereof.

By-laws.

(304) § 7309. SEC. 8. Any company formed under this act shall be deemed a body corporate and politic in fact and in name, and shall be subject to all the provisions of the statute in relation to corporations, so far as they are applicable.

A body cor-
porate.

(305) § 7310. SEC. 9. Any such company formed under this act shall have power to amend its articles of association at the regular annual meeting held according to the provisions of said articles of association and upon giving notice of such intention by printed circular, or postal card, or letter, to be addressed and sent by mail at least three weeks previous to such meeting to all the members, officers, trustees, and directors of such company. Said amendments so had shall be submitted to the attorney general and his certificate of compliance with the law obtained, and a copy of said amendments with said certificate shall be filed in the office of the commissioner of insurance, and if he approve of such amendments shall make a certified copy thereof and deliver the same to the company, which upon being filed with the county clerk of the county in which the office of such company is located, shall become operative.

How articles
of association
amended.

(306) § 7311. SEC. 10. Suits at law may be maintained by corporations formed under this act against any of its members, for any cause relating to the business of such corporation; also suit at law may be prosecuted and maintained by any member against such corporations for claims which may have accrued, if payments are withheld more than sixty days after such claims shall have become due. The articles of association and by-laws of any such company organized under the provisions of this act may provide for the receiving of applications or agreements from its members for insur-

Suits against
members and
against cor-
poration.

Assessments. ance, with or without taking from the insured any premium note or notes; and it shall be lawful for such mutual insurance companies to make assessments upon such agreements, or policies issued thereon, or upon the premium note or notes, as the case may be, pro rata, according to the amount of such agreement or policies or premium note or notes for the payment of the losses and expenses incurred by such companies, and all such premium notes, or agreements, or assessments shall be a lien upon the property insured to the amount of such note, notes, agreements, assessments, costs, and interest due thereon.

Statement under oath to be deposited with commissioner of insurance. (307) § 7312. SEC. 11. It shall be the duty of the president, or vice president, and secretary of any such company organized under this act, annually on the first day of January, or within one month thereafter, to prepare under their own oath, and deposit in the office of the commissioner of insurance, a statement of the condition of such company on the thirty-first day of December then next preceding, exhibiting the following facts and items, namely:

What to contain.

First, The number of members belonging to the company; the number of members added during the year; the number of members who have withdrawn, or whose policies have been canceled during the year;

Second, The amount of property at risk December thirty-first of the previous year; the amount of risks added during the year; the amount of risks, canceled, withdrawn, or terminated during the year, and the net amount at risk by the company;

Third, The amount of premium or deposit notes, or agreements in force; the amount of cash premiums or assessments actually on hand; the amount of outstanding assessments not canceled; the nature and amount of all other resources; the total amount of resources;

Fourth, The claims for losses due and payable; the claims for losses not matured; the claims for losses resisted; the nature and amount of all other claims, due or accrued, and the total amount of liabilities;

Fifth, The amount of premiums on deposit notes taken during the year; the amount of cash premiums received during the year; the amount collected on assessments which were levied during the year; the amount collected during the year on assessments which were levied in prior years; the amount received from membership or policy fees, or from any other sources constituting an expense to the insured; the amount received from percentage on increased or decreased insurance, the income from all other sources, and the total income;

Sixth, The amount paid for losses during the year, stating the amount of same which was for losses of previous years; the amount of salary and fees paid to officers and directors; the amount of all other expenditures during the year, and the total expenditures during the year;

Seventh, The commissioner of insurance may from time to time make any change in the form of annual reports to be made by such companies, to elicit further information regarding the condition of the company.

(308) § 7313. SEC. 12. A copy of every such sworn statement and report shall in said month of January be published at least twice in said month in a newspaper published in the county where the business office of the company is located; also a copy of such sworn statement shall be filed in the office of the county clerk of such county where the office of the company is located; also a copy of such sworn statement with an additional affidavit showing that the same has been published, and that the same has been filed in the office of the county clerk as herein provided, shall be filed in the office of the commissioner of insurance; and if upon examination of such annual statement, or of the affairs of the company, it shall appear to the commissioner of insurance that the losses and expenses of any company organized under this act have, during the year, exceeded the cash premiums and assessments collected to such an extent as to imply a doubt in the mind of said commissioner of insurance as to the solvency of said company, and its ability to pay all its losses and other debts, it shall be the duty of said commissioner of insurance to notify the officers of said company to, at the end of sixty days from the date of such notice, discontinue the issuing of policies, and to suspend its business until such time as that the officers and directors of said company shall collect assessments, and pay such losses and debts, and satisfy said commissioner of insurance of the solvency of such company.

Copy of statement to be published.

Duty of commissioner of insurance.

(309) § 7314. SEC. 13. In case the officers or directors of such company shall neglect or refuse to perform any of the duties required of them by this act, or shall knowingly make or permit to be made any false or imperfect statement in any annual or other report required to be made by them; or shall knowingly aid in, or formally consent to any violation of any of the provisions of this act; then in such case every such director, officer, or person so offending shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to punishment by fine not exceeding five hundred dollars or to imprisonment not exceeding one year; and in case such neglect or refusal on the part of such officers or directors to conform to and be guided by the requirements of this act is known to the commissioner of insurance, it shall be his duty to notify the prosecuting attorney of the county where the office of such company is located, whose duty it shall then be to commence legal proceedings against such officers or directors to enforce the penalty hereby imposed.

Penalty for violation of act by officers.

(310) § 7315. SEC. 14. The books of any such company shall be open to the examination of any and all the officers and of the members at any time; also to the inspection of the

Books to be open for examination.

commissioner of insurance in person, or by deputy, whenever he shall deem an examination necessary.

Appointment of receiver. (311) § 7316. SEC. 15. In case of insolvency, neglect, or refusal of any such company to meet its liabilities and discharge all outstanding claims against such company, the commissioner of insurance may in person or by counsel appear in the circuit court of the county where the office of such company is located, and move for the appointment of a receiver for said company, and the company may also be heard upon such motion, and if it shall appear to the satisfaction of the court that the affairs of the company are in such condition that such motion for the appointment of a receiver should be granted, the said court shall then and there appoint a receiver for such company, who shall be empowered to take possession of all books, papers, moneys, and personal property of such company, and shall at once proceed to the collection of funds and the liquidation of the liabilities of such company, in accordance with the provisions of this act and in conformity to the charter and by-laws of such company. Such receiver shall keep an accurate account of all moneys or other property received by him; he shall pay over all moneys by him collected and the proceeds of all personal property pro rata upon the liabilities of the company, retaining therefrom for his services and expenses such an amount as the court may deem reasonable; he may sue for and recover any legal assessment made upon the policy holders or members of the company, and he shall use due diligence in the settlement of the affairs of the company, and make his final report to the court making the appointment, from whence he shall get his formal discharge.

Duty of receiver.

An Act to authorize the incorporation of manufacturers' mutual fire insurance companies.

[Act 78, P. A. 1883.]

The People of the State of Michigan enact:

Incorporation authorized. (312) § 7317. SECTION 1. That any number of owners or operators of mills, factories, buildings, or machinery used for manufacturing purposes, who are residents of this state, not less than ten in number, may associate together, and form an incorporated company, for the purpose of mutual insurance of the property of its members against loss or damage by fire, or lightning; which property to be insured shall consist of mills, factories, elevators, warehouses, the fixtures, tools, machinery, engines, and implements therein, and the lumber yards, raw material, and manufactured products,

stock, and other property, forming a part of such manufacturing property, belonging to such members.

Policy holders in these companies are liable only for losses occurring during the life time of their policies.—*Detroit M. Mut. F. Ins. Co. v. Merrill*, 101 / 393. An arrangement by which the directors of a company organized hereunder execute a bond to the company for the purpose of establishing a reserve guaranty fund to its assets, to be drawn upon by the board of directors to protect policy holders from assessment upon deposit notes and which makes the obligors creditors of the company to the amount of advances, is void.—*Goss v. Peters*, 98 / 112.

(313) § 7318. SEC. 2. Such persons, so associating, shall file in the office of the commissioner of insurance, a statement signed by all the incorporators, setting forth their purpose of forming a corporation for the transaction of the business of mutual insurance, in accordance with the provisions of this act, the name by which the corporation shall be known, the town, or city, which shall be within the state, in which the principal office of said corporation is to be located, and a copy of the articles of association proposed to be adopted. Notice of the intention to form such corporation shall be published once in each week for at least five successive weeks, in a public newspaper published in the county where the principal office of said corporation is proposed to be located. Affidavits of the publication of such notices, by the printer of the newspaper in which the same has been published, or of some one in his employ, knowing of such publication, may be filed in the office of the commissioner of insurance, and shall be evidence of the facts therein stated.

Statement to be filed with commissioner.

Notice of intention.

Affidavits of publication.

(314) § 7319. SEC. 3. The persons so associating, after having filed the statement and published the notice as aforesaid, may open books to receive propositions, and enter into agreement in manner hereafter specified and in accordance with the articles of association of said corporation: Provided, however, That insurance companies organized as aforesaid, shall not commence business until such company shall be possessed of not less than sixty thousand dollars in premiums, upon which not less than nine thousand dollars shall have been paid in cash, and the remainder in notes or agreements of solvent parties, founded on actual and bona fide applications for insurance. Such notes or agreements may be for any amount deemed adequate by the directors of such company, but in no event shall any note taken by such company, whether prior or subsequent to its organization, be for more than ten times the actual cash premium, or payment collected thereon; nor shall any such company at any time expose itself to loss by any one fire in excess of five per cent of the face of all the deposit and premium notes or agreements, in force, held by such company.

Opening of books, etc.

Proviso in reference to commencing business.

Limit of value of notes and amount insurable in a single risk.

(315) § 7320. SEC. 4. The companies formed under this act shall not purchase or hold any real estate, except: First, Such as shall be necessary for their immediate accommodation; or

Companies not to purchase or hold real estate except in certain cases.

Second, Such as shall have been conveyed, or mortgaged to the companies, in good faith, by way of security for debt; or

Third, Such as shall have been conveyed to the companies in satisfaction for debts; or

Fourth, Such as shall have been purchased at sales upon judgment, decrees, or mortgages, in favor of said companies, or held, or owned by them, and all real estate obtained by virtue of any provisions of this section, except that mentioned in the first subdivision, shall be sold, or disposed of, within five years after the title has been perfected in any such company, unless the company shall procure a certificate from the commissioner of insurance that the interest of said company will materially suffer by forced sale, in which event, the sale may be postponed for such period as the said commissioner of insurance shall direct, in said certificate, not exceeding ten years in all.

Articles of
association to
be filed, etc.

(316) § 7321. SEC. 5. It shall be the duty of the incorporators of any company organized under the provisions of this act, to declare in its articles of association, which is hereby required to be filed with, and approved by the commissioner of insurance, the mode and manner in which the corporate powers, given under and by virtue of this act, are to be exercised, the mode and manner of choosing officers, trustees, or directors, who shall each, and all of them, be residents of this state, the filling of vacancies, the period for the commencement and termination of its fiscal year, and shall prescribe the liabilities of the members to be assessed towards defraying the losses and expenses of such companies, and the mode and manner of collecting such assessments, and the members shall be liable to assessments for all liabilities to the company, to the extent declared in the articles of association.

Articles of
association to
be examined
by attorney
general.

(317) § 7322. SEC. 6. The articles of association thus to be filed by any such corporation shall be examined by the attorney general, and if found to be in accordance with the requirements of this act, he shall certify the same to the commissioner of insurance, and said commissioner, in person, or by his deputy, or by the appointment of some disinterested person for that purpose, shall, if he approve the articles of association, examine and certify under oath, that any such company has received and is in actual possession of the premiums or engagements of insurance, as the case may be, to the full extent required by this act. Copies of such certificate shall be filed in the office of the commissioner of insurance, whose duty it shall then be to furnish the corporation with a certified copy of the charter and of the certificates aforesaid, which, upon being filed by them in the county clerk's office, of the county in which the office of any such company is located, shall be their authority to commence business, and to issue policies of insurance, and the same may be used in evidence for or against said corporation. And suits may be brought against any such company in any

Copies of cer-
tificate to be
filed.

Where suits
may be
brought.

county in this state, in which it shall do business or take risks in which the plaintiff resides or in the county where the principal office of the company is located.

(318) § 7323. SEC. 7. The corporators, trustees, or directors, as the case may be, of any company organized under this act, shall have power to make such by-laws not inconsistent with the constitution or laws of this state as may be deemed necessary for the government of its officers and members and the conduct of its affairs. By-laws.

(319) § 7324. SEC. 8. Any company, formed under this act, shall be deemed a body corporate and politic, in fact and in name, and shall be subject to all the provisions of the statute in relation to corporations so far as they are applicable. Deemed a body corporate and politic.

(320) § 7325. SEC. 9. Any such company, formed under this act, shall have power to amend its articles of association at the regular annual meeting held according to the provisions of said articles of association, and upon giving notice of such intention by printed circular, or postal card, or letter, to be addressed and sent by mail at least three weeks previous to such meeting, to all the members, officers, trustees, and directors of such company. Said amendments so had shall be submitted to the attorney general and his certificate of compliance with the law obtained and a copy of said amendments with said certificate shall be filed in the office of the commissioner of insurance, and if he approve of such amendments shall make a certified copy thereof and deliver the same to the company, which, upon being filed with the county clerk of the county in which the office of such company is located, shall become operative. Amendment of articles.

Amendments to be approved by attorney general.

(321) § 7326. SEC. 10. Suits at law may be maintained by corporations formed under this act against any of its members for any cause relating to the business of such corporation; also, suit at law may be prosecuted and maintained by any member, against such corporations, for claims which may have accrued, if payments are withheld more than sixty days after such claims shall have become due. The articles of association and by laws of any such company, organized under the provisions of this act, may provide for the receiving of applications or agreements from its members for insurance, with or without taking from the insured any premium note or notes, and it shall be lawful for such mutual insurance companies to make assessments upon such agreements or policies issued thereon, or upon the premium note or notes as the case may be, pro rata, according to the amount of such agreement on policies or premium note or notes, for the payment of the losses and expenses incurred by such companies; and all such premium notes or agreements or assessments shall be a lien upon the property insured to the amount of such note, notes, agreements, assessments, costs, and interest due thereon. Suits at law.

Articles of association may provide, etc.

Annual
statement.

(322) § 7327. SEC. 11. It shall be the duty of the president, or vice president, and secretary of any such company, organized under this act, annually on the first day of January, or within one month thereafter, to prepare under their own oath, and deposit in the office of the commissioner of insurance, a statement of the condition of such company, on the thirty-first day of December then next preceding, exhibiting the following facts and items, namely:

What state-
ment to con-
tain.

First, The number of members belonging to the company, the number of members added during the year, the number of members who have withdrawn or whose policies have been canceled during the year;

Second, The amount of property at risk, December thirty-first of the previous year, the amount of risks added during the year, the amount of risks canceled, withdrawn, or terminated during the year, and the net amount at risk by the company;

Third, The amount of premium, or deposit notes, or agreements in force, the amount of cash premiums, or assessments actually on hand, the amount of outstanding assessments not canceled, the nature and amount of all other resources;

Fourth, The claims for losses due and payable, the claims for losses not matured, the claims for losses resisted, the nature and amount of all other claims due or accrued, and the total amount of liabilities;

Fifth, The amount of premiums on deposit, notes taken during the year, the amount of cash premiums received during the year, the amount collected of assessments which were levied during the year, the amount collected on assessments which were levied in prior years; the amount received from membership or policy fees, or from any other sources, constituting an expense to the insured, the amount received from percentage, on increased or decreased insurance, the income from all other sources, and the total income;

Sixth, The amount paid for losses during the year, stating the amount of same which was for losses of previous years, the amount of salary and fees paid to officers and directors, the amount of all other expenditures during the year, and the total expenditures during the year;

Seventh, The commissioner of insurance may, from time to time, make any change in the form of annual reports to be made by such companies, to elicit further information regarding the condition of the company.

Publication of
statement.

(323) § 7328. SEC. 12. A copy of every such sworn statement, and report, shall, in said month of January, be published at least twice in said month, in a newspaper published in the county where the business office of the company is located; also, a copy of such sworn statement shall be filed in the office of the county clerk of such county where the office of the company is located; also a copy of such sworn statement, with an additional affidavit, showing that the same has been published, and that the same has been filed in the

Statement to
be filed, etc.

office of the county clerk, as herein provided, shall be filed in the office of the commissioner of insurance; and, if upon examination of such annual statement, or of the affairs of the company, it shall appear to the commissioner of insurance, that the losses and expenses of any company organized under this act, have, during the year, exceeded the cash premiums, and assessments collected, to such an extent as to imply a doubt in the mind of said commissioner of insurance as to the solvency of said company, and its ability to pay all its losses and other debts it shall be the duty of said commissioner of insurance, to notify the officers of said company to, at the end of sixty days from the date of such notice, discontinue the issuing of policies, and to suspend its business until such time as that the officers and directors of said company shall collect assessments, and pay such losses and debts, and satisfy said commissioner of insurance of the solvency of such company.

Commissioner may order suspension of business in certain cases.

(324) § 7329. SEC. 13. In case the officers or directors of such company shall neglect or refuse to perform any of the duties required of them by this act, or shall knowingly make, or permit to be made any false or imperfect statement, in any annual or other report required to be made by them, or shall knowingly aid in, or formally consent to any violation of any of the provisions of this act, then in such case, every such director, officer, or person so offending shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to punishment by fine, not exceeding five hundred dollars, or to imprisonment, not exceeding one year, and in case such neglect or refusal on the part of such officers or directors to conform to and be guided by the requirements of this act, is known to the commissioner of insurance, it shall be his duty to notify the prosecuting attorney of the county where the office of such company is located, whose duty it shall then be to commence legal proceedings against such officers or directors, to enforce the penalty hereby imposed.

Neglect or refusal of officers, etc., penalty.

(325) § 7330. SEC. 14. The books of any such company shall be open to the examination of all the officers, and of the members at any time, also to the inspection of the commissioner of insurance in person, or by deputy, whenever he may deem an examination necessary.

Books to be open.

(326) § 7331. SEC. 15. In case of insolvency, neglect to, or refusal of any such company to meet its liabilities, and discharge all outstanding claims against such company, the commissioner of insurance may, in person or by counsel, appear in the circuit court of the county where the office of such company is located, and move for the appointment of a receiver for said company, and the company may also be heard upon such motion, and if it shall appear to the satisfaction of the court, that the affairs of the company are in such condition that such motion for the appointment of a receiver should be granted, the said court shall then and

Appointment of receiver.

Duties and
powers.

there appoint a receiver for such company, who shall be empowered to take possession of said books, papers, moneys, and personal property of such company, and shall at once proceed to the collection of funds and the liquidation of the liabilities of such company, in accordance with the provisions of this act, and in conformity to the charter and by-laws of such company. Such receiver shall keep an accurate account of all moneys or other property received by him; he shall pay over all moneys, by him collected, and the proceeds of all personal property pro rata upon the liabilities of the company, retaining therefrom such an amount, for his services and expenses, as the court may deem reasonable. He may sue for and recover any legal assessment made upon the policy holders, or members of the company, and he shall use due diligence in the settlement of the affairs of the company, and make his final report to the court making the appointment, from whence he shall get his formal discharge.

When a mutual fire insurance company has been declared insolvent, a receiver appointed and an assessment levied against its members, one of them cannot, when sued, question the validity of the assessment for excessiveness.—*Collins v. Welch*, 141 / 676.

Where com-
pany may
insure.

(327) § 7332. SEC. 16. Any insurance company, organized under this act, may insure property of the kind described in section one thereof, situated in any county of this state, and in other states of the Union.

Cancellation
of policies.

(328) § 7333. SEC. 17. Any policy issued by any company organized under this act may at any time be canceled by the company or the insured by written notice given by the party intending to cancel the policy to the other party thereto, either personally delivered or sent by mail addressed to such party at the place which was his or its postoffice address at the date of the application on which such policy is issued, or at the place which is his or its postoffice address at the time of giving such notice. When any such company shall

Unearned pre-
mium to be
returned.

cancel any policy in accordance with the foregoing provision such company shall, upon the delivery of such policy to its secretary for cancellation, return to the insured the unearned portion of cash premium paid on the policy so canceled for the unexpired term, after deducting and retaining any sum or sums of money for which the insured shall then be liable to such company for his pro rata of losses and expenses; when the insured shall cancel any policy in accordance with said provision such insured person so canceling shall at the time of giving such notice pay to the secretary of such company any sum or sums of money due or owing from such insured to such company, or for which such insured shall then be liable to such company; and in case such liability shall not have been ascertained and determined at the time of such notice, shall pay the same on demand after the same shall be ascertained and determined by the company.

Payment of
deferred pre-
mium by
insured.

(329) § 7334. SEC. 18. When any policy so issued by any such company shall be canceled as provided in the next preceding section, such company shall not be liable for any loss under any such policy after such notice shall have been given by the company and received by the insured. All policies so canceled shall be surrendered to the secretary of the company issuing the same for cancellation; and within sixty days after the receipt of any policy by the secretary for cancellation he shall return to the insured the note or notes, agreement or agreements, received from the insured for premium or payment of losses and expenses on payment by the insured to the company of all his liabilities to the company at the time of such cancellation; and on receipt of such note or notes, agreement or agreements, the insured member so receiving the same shall be thereupon discharged from all further liability to such company.

On cancellation, company not liable.

Notes, etc., to be returned, etc.

(330) § 7335. SEC. 19. When a policy issued by any such company shall be canceled by notice given by the insured as provided in section seventeen of this act the company issuing the same may collect and receive of the insured customary short rates as established by such company for the time the policy shall have been in force, and such company may retain such short rates from any money due from such company to the insured.

When policy canceled by insured, rate to be charged.

(331) § 7336. SEC. 20. No agent or officer of any company organized under this act shall have power or authority to waive any written or printed condition or provision contained in any policy issued by such company, or in any application or agreement received by it from its members for insurance, or in its articles of association or by-laws; but all such written and printed conditions or provisions shall be held and deemed to be of the substance of the contract of insurance and strictly binding on insurer and insured, unless such waiver shall be agreed upon by a majority of the board of trustees of such corporation or association.

Condition of policy, how waived.

An Act to authorize the incorporation of threshers' Michigan mutual fire insurance companies and defining their powers and duties.

[Act 176, P. A. 1907.]

The People of the State of Michigan enact:

(332) SECTION 1. Any number of manufacturers, owners or operators of grain, bean and grass seed threshing machinery, hay-pressing machinery, corn husker and shredder, portable engines, whether traction or otherwise, steam or gasoline, portable sawmills and feed-mills operated or driven

Who may incorporate.

Property insured.	by portable engines, not less than ten, being residents of the state, may associate together and form or organize an incorporated company for the purpose of mutual insurance of property against loss or damage by fire or lightning, which property primarily to be insured, shall consist of portable engines, steam or gasoline, whether traction or otherwise, grain separators and attachments, bean threshers, clover hullers, hay-pressing machinery, portable sawmills and feed-
Policy holders to be members.	mills operated or driven by portable engines; and all holders of policies of such incorporated companies, whether residing within or without this state, are thereby members of the company issuing such policy, which policy need not be in the form or words prescribed under the act to establish a uniform policy of insurance; but no company organized under the provisions of this act shall be entitled to the benefit of this act until articles of association and by-laws in accordance therewith have been adopted by a regular or special meeting of such company, due notice of which shall have been mailed to the members at least fifteen days before the date of said meeting.
Form of policy.	
Company, when entitled to benefit of act.	
Statement to be filed, how signed, etc.	(333) SEC. 2. Such persons so associating shall file in the office of the commissioner of insurance a statement, signed by all the incorporators, stating their purpose of forming a company for the transaction of the business of insurance as expressed in the first section of this act, which statement shall also comprise a copy of the articles of association proposed to be adopted by them; and shall publish a notice of such, their intention, once in each week for at least five successive weeks, in a public newspaper published in the county in which the office of such company is proposed to be located.
Copy of articles. Publication of intention.	
Books, when may open, etc.	(334) SEC. 3. The persons so associating, after having filed the statement and published the notice as aforesaid, may open books to receive propositions and enter into agreements in manner hereinafter specified and in accordance with the articles of association of said company. That insurance companies organized as aforesaid shall not commence business until bona fide agreements have been entered into with each for insurance with at least fifty individuals, covering property to be insured of not less than twenty-five thousand dollars.
When may commence business.	
Real estate may hold, etc.	(335) SEC. 4. The companies formed under this act shall not purchase or hold any real estate except: First, Such as shall be necessary for their immediate accommodation in transacting business; or, Second, Such as shall have been conveyed or mortgaged to the companies in good faith by way of security for debts; or, Third, Such as shall have been conveyed to the companies in satisfaction for debts; or, Fourth, Such as shall have been purchased at sales upon judgments, decrees or mortgages in favor of said companies, or held or owned by them, and all real estate obtained by any provision of this section, except that mentioned in the first

subdivision, shall be sold or disposed of within five years after the title has been perfected in any such company, unless the company shall procure a certificate from the commissioner of insurance that the interest of said company will materially suffer by forced sale, in which event the sale may be postponed for such period as the said commissioner of insurance shall direct in said certificate, not exceeding ten years in all.

(336) SEC. 5. It shall be the duty of the incorporators of any company organized under the provisions of this act to declare in its articles of association, which is hereby required to be filed with and approved by the commissioner of insurance, the mode and manner in which the corporate powers given under and by virtue of this act are to be exercised; the mode and manner of choosing officers, trustees or directors, who shall each and all of them be residents of this state; the filling of vacancies; the period for the commencement and termination of its fiscal year, and prescribe the liabilities of the members to be assessed towards defraying the losses and expenses of such company, and the mode and manner of collecting such assessments, and the members shall be liable to assessment for all liabilities of the company to the extent declared in the articles of association.

Articles of
association,
what to de-
clare.

Assessment
for liabilities.

(337) SEC. 6. The articles of association thus to be filed by any such corporation, shall be examined by the attorney general, and if found to be in accordance with the requirements of this act, he shall certify the same to the commissioner of insurance, and said commissioner in person, or by his deputy, or by the appointment of some other disinterested person for that purpose, shall, if he approve of the articles of association, examine and certify under oath that any such company has received and is in actual possession of the premiums or engagements of insurance, as the case may be, to the full extent required by this act. Copies of such certificate shall be filed in the office of the commissioner of insurance, whose duty it shall then be to furnish the corporation with a certified copy of the charter and the certificate aforesaid, which, upon being filed by it in the county clerk's office of the county in which the office of any such company is located, shall be its authority to commence business and to issue policies of insurance, and the same may be used in evidence for or against said corporation, and suits may be brought against any such company in any county in this state in which it shall do business or take risks in which the plaintiff resides or in the county where the principal office of the company is located.

Articles,
examination,
etc., of.

Certificate.

Copies,
where filed.

Authority to
commence
business.

(338) SEC. 7. The corporators, trustees, or directors, as the case may be, of any company organized under this act, shall have power to make such by-laws, not inconsistent with the constitution or laws of this state, as may be deemed necessary for the government of its officers and members, and the conduct of its affairs, but such by-laws shall not be operative until filed with and approved by the commissioner of

By-laws.

When
operative.

	insurance, who shall furnish the company with a certified copy thereof.
Corporate powers.	(339) SEC. 8. Any company formed under this act shall be deemed a body corporate and politic in fact and in name, and shall be subject to all the provisions of the statute in relation to corporations, so far as they shall be practicable.
Articles, how amended.	(340) SEC. 9. Any such company formed under this act shall have power to amend its articles of association at the regular annual meeting held according to the provisions of said articles of association and upon giving notice of such intention by printed circular, or postal card, or letter to be addressed and sent by mail at least three weeks previous to such meeting to all the members, officers, trustees, and directors of such company. Said amendments so had shall be submitted to the attorney general and his certificate of compliance with the law obtained, and a copy of said amendments with certificates shall be filed in the office of the commissioner of insurance, and if he approves of such amendments, shall make a certified copy thereof and deliver the same to the company, which, upon being filed with the county clerk of the county in which the office of such company is located, shall become operative.
Certificate of compliance, and copy.	
When operative.	
Suits at law.	(341) SEC. 10. Suits at law may be maintained by corporations formed under this act against any of its members, for any cause relating to the business of such corporation; also, suits at law may be prosecuted and maintained by any member against such corporation for claims which have accrued, if payments are withheld more than sixty days after such claims shall have become due. The articles of association and by-laws of any such company organized under the provisions of this act may provide for the receiving of applications or agreements from its members for insurance with or without taking from the insured any premium note or notes; and it shall be lawful for such mutual insurance companies to provide in its articles of association for advance assessments upon such agreements or policies issued thereon, or upon the premium note or notes as the case may be, pro rata, according to the amount of such agreements or policies or premium notes for the payment of losses and expenses to be incurred by such companies, which assessments shall be based upon the most accurate data obtainable, and all such premium notes, or agreements, or assessments shall be a lien upon the property insured to the amount of such note, notes, agreements, assessments, costs and interest due thereon.
Premium notes.	
Advance assessments.	
Assessments, how based.	
Statement of condition, what to exhibit.	(342) SEC. 11. It shall be the duty of the president or vice president and secretary of any such company organized under this act, annually on the first day of January, or within one month thereafter to prepare under their own oath, and deposit in the office of the commissioner of insurance, a statement of the condition of such company on the thirty-first day of December next preceding, exhibiting the following facts and items, namely:

First, The number of members belonging to the company; Membership.
the number of members added during the year; the number
of members who have withdrawn, or whose policies have been
cancelled during the year;

Second, The amount of property at risk December thirty- Risks.
first of the previous year, the amount of risks added during
the year; the amount of risks cancelled, withdrawn, or
terminated during the year, and the net amount at risk by
the company;

Third, The amount of premium or deposit notes or agree- Premiums.
ments in force; the amount of cash premiums or assessments
actually on hand; the amount of outstanding assessments not
cancelled; the nature and amount of all resources; the total
amount of all resources;

Fourth, The claims for losses due and payable; the claims Claims.
for losses not matured; the claims for losses resisted; the
nature and amount of all other claims, due or secured, and
the total amount of liabilities;

Fifth, The amount of premiums on deposit notes taken Receipts.
during the year; the amount collected on assessments which
are levied during the year; the amount collected during the
year on assessments which were levied in prior years; the
amount received from membership or policy fees or from any
other sources constituting an expense to the insured; the
amount received from percentage an increased or decreased
insurance; the income from all other sources, and the total
income;

Sixth, The amount paid for losses during the year, stating Expenditures.
the amount of same which was for losses of previous years;
the amount of salary and fees paid to officers and directors;
the amount of all other expenditures during the year, and
the total expenditures during the year;

Seventh, The commissioner of insurance may from time to Annual
time make any change in the form of annual reports to be report,
made by such companies, to elicit further information re- change in
form of.
garding the conditions of the company.

(343) SEC. 12. A copy of every such sworn statement and Sworn
report shall in said month of January be filed in the office of statement and
the county clerk of such county where the office of the com- report, filed in
pany is located; also a copy of such sworn statement with county.
the additional affidavit showing that the same has been filed Affidavit.
in the office of the county clerk as herein provided, shall be
filed in the office of the commissioner of insurance; and if
upon examination of such annual statement, or of the affairs
of the company, it shall appear to the commissioner of in-
surance that the losses and expenses of any company organ-
ized under this act have, during the year, exceeded the cash
premiums and assessments collected to such an extent as to
imply a doubt in the mind of said commissioner of insur-
ance as to the solvency of said company, and its ability to
pay all its losses and other debts, it shall be the duty of
said commissioner of insurance to notify the officers of said
business.

company to, at the end of sixty days from the date of such notice, discontinue the issuing of policies, and to suspend its business until such time as that the officers and directors of said company shall collect assessments, and pay such losses and debts, and satisfy said commissioner of insurance of the solvency of said company.

Penalty for
neglect, false
statement, etc.

(344) SEC. 13. In case the officers or directors of such company shall neglect or refuse to perform any of the duties required of them by this act, or shall knowingly make or permit to be made any false or imperfect statement in any annual or other report required to be made by them, or shall knowingly aid in or formally consent to any violation of any of the provisions of this act, then in such case every such director, officer, or person so offending shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be subject to punishment by fine not exceeding five hundred dollars, or to imprisonment not exceeding one year; and if such neglect or refusal on the part of such officers or directors to conform to and be guided by the requirements of this act is known to the commissioner of insurance, it shall be his duty to notify the prosecuting attorney of the county where the office of such company is located, whose duty it shall be to commence legal proceedings against such officers or directors to enforce the penalty hereby imposed.

When
commissioner
to notify
prosecutor
to enforce
penalty.

Books, open to
examination.

(345) SEC. 14. The books of any such company shall be open to the examination of any and all of the officers and of the members at any time; also, to the inspection of the commissioner of insurance in person, or by deputy, whenever he shall deem an examination necessary.

Insolvency,
etc.

(346) SEC. 15. In case of insolvency, neglect or refusal of any such company to meet its liabilities and discharge all outstanding claims against such company, the commissioner of insurance may in person or by counsel appear in the circuit court of the county where the office of such company is located, and move for the appointment of a receiver for said company, and the company may also be heard upon such motion, and if it shall appear to the satisfaction of the court that the affairs of the company are in such condition that such motion for the appointment of a receiver should be granted, the said court shall then and there appoint a receiver for such company, who shall be empowered to take possession of all books, papers, moneys, and personal property of such company, in accordance with the provisions of this act and in conformity to the charter and by-laws of such company. Such receiver shall keep an accurate account of all moneys or other property received by him; he shall pay over all moneys by him collected and the proceeds of all personal property pro rata upon the liabilities of the company, retaining therefrom for his services and expenses such an amount as the court may deem reasonable; he may sue for and recover any legal assessments made upon the policy holders or members of the company, and he shall use

Receiver,
appointment
of, hearing.

Duty of.

due diligence in the settlement of the affairs of the company, and make his final report to the court making the appointment, from whence he shall get his discharge. Final report and discharge.

An Act to authorize the incorporation of retail lumber dealers' mutual insurance associations.

[Act 2, P. A. 1909.]

The People of the State of Michigan enact:

(347) SECTION 1. It shall be lawful for any number of retail lumber dealers, either individuals, partnerships, partnership associations or corporations not less than twenty-five, who collectively shall have capital invested in the retail lumber business to the aggregate value of not less than fifty thousand dollars, to organize a mutual insurance association for the purpose of insuring their stock of lumber, sheds, offices and fixtures generally kept in retail lumber yards, against loss or damage by fire and lightning, by complying with the following conditions, viz.: They shall sign articles of organization which shall be substantially in the following form: Who may organize, purpose, etc.

"The undersigned retail lumber dealers of the state of Michigan and owners of more than fifty thousand dollars capital invested in the retail lumber business do hereby associate together by forming a mutual insurance association under the name of Lumber Dealers' Mutual Insurance Association of Michigan for the purpose of insuring the stock of lumber, sheds, offices and fixtures generally kept in a retail lumber yard, against loss or damage by fire and lightning. The elective officers of said association shall be president, and a board of directors of six members, to be elected at the first meeting by the signers of the articles of association. Three of said directors shall be elected and hold their office until the first annual meeting and three until the second annual meeting, or until their successors shall be elected. At the first annual meeting and annually thereafter, three members of said board of directors shall be elected for a term of two years each. The president shall be elected annually and, by virtue of his office as president of the association, shall be a member of the board of directors and president of the board. The board of directors shall fix the time and place for holding the annual meeting and shall elect the secretary and treasurer and such other officers as may be provided for in the by-laws of the association. Articles, form of.

In witness whereof we have hereunto signed our names this day of, A. D., nineteen hundred and" Elective officers.

Who shall
subscribe.

(348) SEC. 2. Such articles of organization shall be subscribed to by at least twenty-five retail lumber dealers of the state of Michigan, who are owners of not less than fifty thousand dollars' worth of stock in retail lumber yards, which shall be insured by such association, and when so signed shall be filed in the office of the insurance commissioner of this state. After the articles of association have been filed with the commissioner, with proof that policies to cover the amount of insurance have been applied for, they shall be examined by the attorney general, and if found in conformity with the law, the commissioner of insurance shall issue a certificate that said association is duly organized and is entitled to do business under the laws of this state.

Attorney
general,
examination
of articles by.

Management,
how vested.

(349) SEC. 3. The general management of the business of said association shall be vested in a president and six directors, each of whom shall, during his term of office, either be a policy holder in said association, or shall be a member of a firm or association or a stockholder in a corporation which shall be a policy holder in said association. The officers of such company shall be elected as follows: The signers of the articles of association shall elect from their number a president and six directors, of whom the president and three directors shall hold their offices until the first annual meeting or until their successors are elected, and three directors until the second annual meeting; and at the first annual meeting thereafter, three members of said board of directors shall be elected for a term of two years each. The president shall be elected annually by the policy holders and, by virtue of his office as president of the association, shall be a member of the board of directors and also president of the same. The board of directors shall fix the time and place for holding the annual meeting and shall elect a secretary, treasurer and such other officers as may be provided for by the by-laws, whose duties and compensation shall be such as may be provided for in the by-laws.

Election of
officers.

Annual
meeting.

By-laws.

(350) SEC. 4. Such association, before commencing its business, shall prepare and adopt by-laws, which shall prescribe the duties of its officers, the manner, place and time of electing them; the place and manner of transacting its business and such other rules and regulations as may be deemed essential for the management of its affairs. Such by-laws shall not be annulled, changed, suspended or repealed, except in the manner therein set forth, and a copy of same and of any subsequent amendments thereto or changes therein shall be, by the secretary, forthwith filed with the commissioner of insurance.

Standard
policies,
authority to
issue.

(351) SEC. 5. Such association is authorized to issue standard policies of insurance signed by the president and secretary, agreeing to pay the person insured thereby all loss and damage to the property insured, by fire or lightning, for a period of not more than three years, not exceeding the amount of three thousand dollars.

(352) SEC. 6. Every holder of a policy of such insurance shall be a member of the association and be entitled to one vote, either in person or by proxy, for each thousand dollars of insurance or major fraction thereof, in the meetings of the association, and in the election of president and directors, and shall be eligible, or if such member be a partnership, partnership association or corporation, then a member or stockholder thereof shall be eligible to be elected to any office of such association. Such members shall be liable to the association for a share of all losses and damages by fire or lightning sustained by any other member, and shall also be liable for a share of the expense of the management of the business of such association, in proportion to the amount of insurance in such association, but his liability shall not exceed five times the amount of the cash premium required by the by-laws to be paid before the policy is issued, in addition to the premium so paid, and shall also be bound by and subject to the by-laws of the association.

Members,
right of.

Liability of.

(353) SEC. 7. The association shall, in and by its by-laws, provide for the manner in which such insurance shall be effected and the terms and conditions thereof; the time and manner in which such losses by it sustained under its policies of insurance shall be determined, proved, adjusted and paid, and the time and manner and the officers to whom such assessment shall be paid. It shall also, in and by its by-laws, provide such other regulations, terms and conditions as may be necessary for effectively and fully carrying out its plans of insurance, and the said by-laws in force at the time of the date of any policy of insurance issued by the association shall have the force and effect of law in the determination of all questions and claims arising under such policy between the holder thereof and the said association.

Miscellaneous
provisions.

(354) SEC. 8. The said association shall also in its by-laws provide the manner, terms and conditions upon which any member thereof may withdraw, or be suspended or policy cancelled.

Withdrawals,
etc.

(355) SEC. 9. The secretary of the association shall prepare and submit to the members thereof, at each annual meeting, a detailed statement of the condition of such association and its transactions for the preceding year, showing the number of policies and to whom issued; the amounts assured thereby; the number of assessments made during the year and the amounts paid in upon each assessment; the losses sustained during the year, and whether the same have been paid or adjusted or remain unpaid or unadjusted or are disputed and the amount of the assessment unpaid; the number of members of the association; the number of new policies issued during the year; an itemized statement of the disbursements and condition of its funds. A copy of such annual statement shall, within thirty days after such meeting, be filed with the insurance commissioner of this state.

Annual
statement,
what to
contain.

Copy, where
filed.

Access to
books,
papers, etc.

(356) SEC. 10. All the books, papers and files of such association shall at all times be open to the examination of any member thereof, his agent or attorney, and any such member, agent or attorney shall at all times have the right to make such copies of such books, papers and files as he may wish. The books of the association shall at all times be subject to examination by the commissioner of insurance or his deputy.

An Act to allow mutual fire insurance companies of the state of Michigan and of other states to do business within this state. (a)

[Act 36, P. A. 1883.]

The People of the State of Michigan enact:

When may
transact
business.

Capital.

(357) § 5122. SECTION 1. It shall be lawful for any mutual fire insurance company, organized under the laws of the state of Michigan or of any other state of the United States, and being possessed of at least two hundred thousand dollars of actual net cash assets, to transact the business of fire insurance in this state, in like manner as stock companies of the state of Michigan or other states may do, upon receiving from the commissioner of insurance a certificate of authority. Such amount of two hundred thousand dollars shall be deemed to be the actual capital of such company, and shall be treated as capital by the commissioner of insurance in determining the solvency of such company. In all other respects such mutual fire insurance companies shall be subject to all the penalties and provisions of law applicable to stock fire insurance companies of other states transacting business in this state.

Am. 1909, Act 197.

An Act to regulate the business of mutual fire insurance companies doing business in the state of Michigan.

[Act 122, P. A. 1901.]

The People of the State of Michigan enact:

Gross
premiums,
how ascer-
tained.

(358) SECTION 1. The commissioner of insurance shall, in ascertaining the gross amount of premiums received or secured, upon which he shall require the payment of a specific tax of three per cent, in the case of mutual fire insurance

(a) Title amended 1909, Act 197.

companies of any other state or foreign government doing business within this state, deduct from the total gross premiums received the amount of cash dividends and return premiums, which the company may have given or returned to the policy holders from whom such gross premiums were received.

An Act to define how certain fire insurance organizations known as "Lloyds Associations," may be entitled to do business in this state.

[Act 134, P. A. 1895.]

The People of the State of Michigan enact:

(359) § 5135. SECTION 1. That whenever any number Deposit.
of individuals, citizens of the United States, associate themselves within this state or elsewhere for the purpose of doing an insurance business upon the plan known as "Lloyds," whereby each becomes liable for a proportionate part of the whole amount insured by a policy executed by them, shall deposit with any bank or trust company of the United States, approved by the commissioner of insurance of this state, two hundred thousand dollars in cash or securities, approved by the commissioner of insurance, for the security and benefit of the holders of policies issued by them, and shall cause a report to be made under oath of their financial standing, and of the character and the value of the securities constituting the two hundred thousand dollars aforesaid, which report shall be attested by the general manager or attorney in fact of said individuals, together with a statement of the business done by them during the year next preceding such statement, in the same manner and form and at the same time as is now required by law of insurance corporations organized under the laws of other states or countries, and shall pay into the hands of the state treasurer a specific tax of three per cent annually on the gross amount of premiums received in money or securities on insurance effected on property in this state, and shall at the same time appoint an attorney in fact in this state upon whom process can be served as upon all of said individual underwriters so associated, then and in that case the commissioner of insurance shall issue to said individuals under the associate name which they may or shall adopt, a certificate of authority to transact the business of insurance, in this state, subject to the laws of this state that now govern fire insurance companies of this and other states authorized to do business in this state.

Statement of business.

Specific tax of three per cent.

Certificate of authority.

An Act requiring presidents and secretaries and other executive officers of mutual fire and wind storm insurance companies doing business in this state, to levy assessments sufficient to cover all liabilities of the company at each and every assessment levied.

[Act 205, P. A. 1903.]

The People of the State of Michigan enact:

Amount of
assessment
to levy.

Proviso.

Penalty for
refusal to
make.

(360) SECTION 1. It shall be the duty of the president and secretary or other executive officer or officers having power to levy assessments for each and every mutual fire and wind storm insurance company doing business in this state, to levy an assessment on the members thereof sufficient to cover all liability of the company at each and every assessment: Provided, That if in any year the total amount of loss of any such mutual fire or wind storm insurance company exceeds the amount of four mills on a dollar, the said officers of such company may carry forward one-half of such total amount of loss in excess thereof and include such sum in an assessment to be made during the year immediately following. The remaining amount of such loss in excess thereof shall be carried forward and included in an assessment to be made during the second year immediately following the year during which such loss was sustained.

(361) SEC. 2. Any person being a resident of this state, acting as president, secretary or other officer of any such mutual fire and wind storm insurance company, doing business in this state, who shall wilfully refuse or neglect to make assessments as provided in section one of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding one thousand dollars nor less than five hundred dollars, or by imprisonment in the county jail not less than six months nor more than one year, or both such fine and imprisonment in the discretion of the court.

An Act requiring mutual insurance companies doing business in this state to make yearly schedule, or circular itemized reports to each member thereof, residing in this state, of moneys received and disbursed, and from what source received, and for what purpose disbursed.

[Act 111, P. A. 1883.]

The People of the State of Michigan enact:

Yearly
schedule.

(362) § 5194. SECTION 1. That it shall be the duty of the secretary of each mutual insurance company, doing busi-

ness in this state, to make out and deliver by mail, or otherwise, each year, to each individual member of such company, a printed schedule, or circular itemized report, giving statement of all money, or moneys, received by such company during the year, and on what account, and from what source received, and the total amount received during the year; and also giving an itemized statement of all the money or moneys paid out, or disbursed during the year by such company, and for what purpose or purposes, also the total amount paid out.

(363) § 5195. SEC. 2. Any person, being a resident of this state, acting as secretary of any such mutual insurance companies, doing business in this state, who shall wilfully refuse, or neglect to make out and deliver the reports, as provided in section one of this act, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be subject to a fine of not more than one hundred dollars. Penalty for neglect.

An Act to authorize and compel the attendance of witnesses by the insurer or insured in the adjustment and arbitration of fire losses in insurance companies organized under the laws of this state.

[Act 36, P. A. 1881.]

The People of the State of Michigan enact:

(364) § 5190. SECTION 1. That any justice of the peace of this state is hereby authorized and required to issue subpoenas, and compel the attendance of witnesses before the president, vice president, board of directors, or either of the directors, or the auditor or board of auditors of any mutual fire insurance company organized under the laws of this state, whenever requested so to do by said officers of such insurance companies, or any one of them, or the insured, to give evidence in any matter touching the adjustment or arbitration of losses by fire, which may come before such officer or officers; and such subpoena shall be valid to compel the attendance of a witness within the same county where such matter is to be tried, and within thirty miles of the place of such trial. The opposite party interested in such adjustment or arbitration shall be notified, without cost to him or them, at least twenty-four hours in advance, of the time and place where such witnesses are to be examined, and he or they shall have the right to appear by attorney or in person, and cross-examine all witnesses produced. Justices of the peace authorized to issue subpoenas.

McGraw v. Germanla Fire Ins. Co., 54 / 159.

(365) § 5191. SEC. 2. Any such subpoena may be served by a sheriff, constable, or any other person, and it shall How subpoena served.

be served by delivering a copy thereof, and by paying or tendering to him the same fees for traveling and one day's attendance as are allowed by law in justice courts.

(366) § 5192. SEC. 3. Whenever it shall appear to the satisfaction of said justice of the peace, by affidavit of a party interested in said adjustment or arbitration, or by other competent testimony, that any person duly subpoenaed to appear as required in said subpoena, shall have refused or neglected without just cause to attend as a witness in conformity to such subpoena, and the testimony of such witness is material, as the deponent verily believes, the said justice shall have power to issue an attachment to compel the attendance of such witness, and said witness shall be liable for the costs of such attachment [attachments] and for the service of the same, which costs may be recovered in an action of assumpsit at the suit of the party injured by such neglect or refusal, before any court having competent jurisdiction in like cases, and shall moreover be liable to said injured party in damages.

(367) § 5193. SEC. 4. Any one of said officers of such insurance companies shall have the power, and they are hereby authorized to administer an oath to said witnesses or parties so testifying before them in the adjustment or arbitration of such losses, and said witnesses shall be liable to the same pains and penalties for perjury as are now provided by law.

When attachment may issue.

Costs, how recovered.

Officers of company authorized to administer oaths.

An Act to validate and make binding certain contracts, covenants, and agreements made with fire insurance companies organized under the laws of this state, prescribing, limiting, and restricting the liability of persons incurred therein and the members thereof for the losses and expenses of such companies.

[Act 143, P. A. 1885.]

The People of the State of Michigan enact:

Certain contracts, etc., made valid.

(368) § 5187. SECTION 1. That all contracts, covenants, and agreements heretofore made by and between any mutual fire insurance company organized under any of the laws of this state, or its agents, officers, or representatives, and persons taking insurance therein or becoming members thereof, prescribing, limiting or restricting or undertaking to prescribe, limit, or restrict the liability of such persons or members for the losses or expenses of such companies, shall be valid and binding, and are hereby made valid and binding upon such companies, their assigns, managers or receivers from and including the time when such contracts, covenants or agreements were made and entered into, to the extent of

and according to such limitation or restriction, and not otherwise, notwithstanding the want or failure of legal power or authority, in such company, its agents, officers, or representatives, and the said persons taking insurance therein or becoming members thereof to make and enter into such contract, covenant or agreement. And the liability of the persons insured in such companies and the members thereof, ^{Liability limited.} for the losses or expenses of such companies, shall not exceed the liability assumed by such persons when taking such insurance or by such member when joining such company. And that on payment in full by such person or member, of the amount assumed or agreed to be paid on taking such insurance, or on becoming a member of such company, the said persons so insured as aforesaid and the said members of such companies shall be released and absolved from any and all further liability, for such losses or expenses.

Tolford v. Church, 66 / 441; Nichol v. Murphy, 145 / 425.

(369) § 5188. SEC. 2. That in any case where any such ^{Idem.} companies, their agents, officers, or representatives have heretofore taken or accepted a premium, note, or undertaking for insurance from any person taking insurance in any of such companies or becoming a member thereof with a contract, covenant, or agreement either express or implied that the amount specified in such premium, note or undertaking for insurance shall be the limit of the liability of such insured person or such member, for the losses or expenses of such company, such contract, covenant, or agreement limiting the liability of persons so insured, and the members of such companies, to the amount of such premium, note or undertaking for insurance is hereby ratified, authorized, and made valid and binding and including the time when such contract, covenant, or agreement was made and entered into. And the said persons so insured and the said members of such companies on payment of the amount of such premium, note or undertaking for insurance to the proper officer of such company or to its successors, assigns, managers, or receivers shall be discharged from all further liability for the losses or expenses of such company, its successors, assigns, managers or receivers.

(370) § 5189. SEC. 3. This act shall be binding upon such companies, their officers, agents, and representatives, attorneys, solicitors and employes, and upon its successors, assigns, managers and receivers, and upon the members thereof and the persons insured therein. ^{This act to whom to apply.}

CHAPTER VIII.—CASUALTY INSURANCE.

An Act to provide for the incorporation of mutual insurance companies to insure against cyclones, wind storms, and tornadoes, and defining their powers and duties.

[Act 6, P. A. 1885.]

The People of the State of Michigan enact:

Who may
form corpo-
ration.

Property
insured.

(371) § 7353. SECTION 1. Any number of persons, not less than twenty, may associate together and form an incorporated company for the purpose of mutual insurance of the property of its members against loss by cyclones, wind storms and tornadoes; which property to be insured may embrace schoolhouses, literary and grange halls, churches, agriculture societies' buildings, dwelling houses, barns, accompanying outbuildings and their contents, stores, hotels, blacksmith shops, flour mills, feed mills, elevator buildings, factory buildings, and all other buildings and their contents, farm implements, hay, grain, wool, and other farm products, live stock, wagons, carriages, harnesses, household goods, wearing apparel, provisions, musical instruments and libraries, goods, wares, and merchandise, and any other property being upon farms as farm property, or dwellings, and such other buildings as are specified in this section, that constitute risks in villages and cities, and their contents, as the charter and by-laws of said companies may provide, and belonging to members of said companies.

Am. 1905, Act 5.

To file state-
ment with
commissioner
of insurance.

(372) § 7354. SEC. 2. Such persons so associating shall file in the office of commissioner of insurance a statement, signed by all the incorporators, stating their purpose of forming a company for the transaction of the business of insurance, as expressed in the first section of this act, which statement shall also comprise a copy of the charter proposed to be adopted by them.

As to opening
books.

(373) § 7355. SEC. 3. The persons so associating, after having filed their statement, may open books to receive propositions and enter into agreements in the manner hereafter specified; but no company organized under this act shall do any business or take any risks, or make any insurance in a less territory than this state. No insurance company organized as aforesaid shall commence business until bona fide agreements have been entered into for insurance with at least one hundred individuals, covering property to be insured to the amount of not less than one hundred thousand dollars.

Territory in
which risks
may be taken.
Requirements
necessary
before com-
mencing
business.

Holding of
real estate.

(374) § 7356. SEC. 4. No company formed under this act shall purchase or hold any real estate except:

First, Such as shall be necessary for its immediate accommodation in transacting business; or

Second, Such as shall have been conveyed or mortgaged to the company in good faith by way of securities for debt; or

Third, Such as shall have been conveyed to the company in satisfaction for debts; or

Fourth, Such as shall have been purchased at sales upon judgments, decrees, or mortgages in favor of such company, or held or owned by it; and all real estate obtained by virtue of any provisions of this section, except that mentioned in the first subdivision, shall be sold or disposed of within five years after the title has been perfected in such company, unless the company shall procure a certificate from the commissioner of insurance that the interest of said company will materially suffer by forced sale, in which event the sale may be postponed [for] such period as the commissioner of insurance shall direct in said certificate, not to exceed ten years in all.

When real estate shall be sold.

Postponement of sale.

(375) § 7357. SEC. 5. In addition to the foregoing provisions, it shall be the duty of the corporators of any company organized under the provisions of this act to declare in the charter, which is hereby required to be filed, the mode and manner in which the corporate powers, given under and by virtue of this act, are to be exercised, the mode and manner of electing trustees or directors, who shall be citizens of this state, the filling of vacancies, the period for the commencement and termination of its fiscal year, and may prescribe therein the liabilities of the members to be assessed towards defraying the losses and expenses of the company, and the mode and manner of collecting such assessments.

Charter to be filed.

What to contain.

Further requirements as to charter.

(376) § 7358. SEC. 6. The charter thus to be filed by the corporation shall be examined by the attorney general, and if found to be in accordance with the requirements of this act, he shall certify the same to the commissioner of insurance, and said commissioner may appoint three disinterested persons, who shall be residents of this state, who shall certify under oath that said corporation has received and is in actual possession of the premiums or engagements of insurance, as the case may be, to the full extent required in this act: Provided, however, The commissioner of insurance may make such examination personally or by his deputy. Copies of such certificate shall be filed in the office of commissioner of insurance, whose duty it shall then be to furnish such corporation with a certified copy of the charter and certificate aforesaid, which shall be their authority to commence business and issue policies, and the same may be used as evidence for or against such corporation.

Certificate of attorney general to be filed with commissioner.

Duty of commissioner.

Proviso.

Issuance of authority to do business.

(377) § 7359. SEC. 7. The corporators, or the trustees, or directors as the case may be, of any company organized under this act, shall have power to make such by-laws, not inconsistent with the constitution or laws of this state, as may be deemed necessary for the government of its officers and members, and the conduct of its affairs.

By-laws.

Statutes governing.	(378) § 7360. SEC. 8. Any company formed under this act, shall conform, in all respects, and be governed by chapter one hundred and thirty-two of Howell's annotated statutes, except where the same is inconsistent herewith.
Amendment to articles of association.	(379) SEC. 9. Any company incorporated under this act shall have the power to amend its articles of association or charter, at any regular annual meeting held according to the provisions of said charter or articles of association, and upon giving notice of an intention so to do, and of the time and the place of the meeting for that purpose; such notice shall be published for five successive weeks in some newspaper published weekly that has a general circulation throughout the state, and in some newspaper published weekly in the county in which the business office of said company is located, or such notice of intention may be given by printed circulars, postal cards or letters, to be addressed to all members, officers, trustees and directors of such company, and deposited in the postoffice with postage fully paid thereon, at least three weeks previous to such meeting. Any company organized under this act may amend its charter or articles of association at a special meeting called for that purpose, in accordance with the provisions of its charter, and by giving the notice of such intention to amend in the manner authorized by this section. All amendments made to the charter or articles of association of any company heretofore organized under this act, after a notice of intention to amend the said charter or articles of association has been given in the manner herein provided, are hereby legalized and are hereby declared to be legal and valid. All amendments hereafter made shall be submitted to the attorney general and his certificate of compliance with the law obtained; and said amendments shall be filed in the office of the commissioner of insurance and also with the clerk of the county in which the home office of the company is located.
Notice of intention.	
Amendment at special meeting.	
Amendments legalized.	
Submitted to attorney general.	
Where filed.	

Added 1907; Act 131.

An Act to provide for the organization of log and timber insurance companies, to insure against the risks of navigation upon the great American lakes and the waters connected therewith, in towing or transportation of logs or timber, and to define their powers.

[Act 73, P. A. 1887.]

The People of the State of Michigan enact:

Not less than ten persons may form incorporation.	(380) § 7361. SECTION 1. That any number of persons, not less than ten, may associate together and form an incorporated company for the following purposes, to wit: To make insurance on logs and timber against the risks of navigation
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upon the great American lakes and the waters connected therewith, in towing and transportation thereof.

(381) § 7362. SEC. 2. Any company organized under this act shall have the power to effect reinsurance of any risks taken by them respectively. Company may reinsure.

(382) § 7363. SEC. 3. Such persons so associating under the provisions of this act shall execute under their hands, and acknowledge before an officer authorized by law to take the acknowledgment of deeds, articles of association, which shall contain: Articles of association.

First, The name of the company;

Second, The location of its principal office for the transaction of [its] business;

Third, The number and manner of electing its trustees or directors and officers;

Fourth, The date of holding its annual meeting, and the term of its existence, which shall not exceed thirty years;

Fifth, The amount of capital stock.

(383) § 7364. SEC. 4. Such persons shall file in the office of the commissioner of insurance the articles of association proposed to be adopted by them, which shall be examined by the attorney general, and if found conformable to this act, and not inconsistent with the constitution and laws of this state, shall be certified by him to the commissioner of insurance, who shall thereupon make an examination, or cause one to be made by some disinterested person officially appointed by him for that purpose, and if it shall be found (if the examination be made by other than the commissioner of insurance, then the finding shall be certified under oath), that the percentage of the capital stock herein required has been paid in, then he shall so certify. The corporators or officers of any such company, or proposed company, contemplated by this act, shall be required to certify under oath to the commissioner of insurance that twenty per cent of the capital stock has been paid in as required by this act. Such certificate shall be filed in the office of said commissioner of insurance, who shall thereupon deliver to such company a certified copy of the articles of association and of said certificate, which, on being filed in the office of the clerk of the county where the company is to be located, shall be its authority to commence business and issue policies; and such certified copy of the articles of association and of said certificate may be used in evidence for or against said company with the same force and effect as the original. Where filed, and by whom examined, etc.

(384) § 7365. SEC. 5. The capital stock of any company organized under this act shall not be less than one hundred thousand dollars, in shares of one hundred dollars each. At least twenty per cent of such capital stock shall be paid in before such company shall be authorized to commence business. Certificates of officers of company, where filed.

(385) § 7366. SEC. 6. No company formed under this Commissioner of insurance to deliver copy, etc.

Authority to commence business.

Capital stock, etc.

Prohibited from trading, etc.

	act shall, directly or indirectly, deal or trade in buying or selling any goods, wares, merchandise or other commodity whatever except in logs or timber, which have been insured by such company, and are recovered after such insurance shall have been adjusted or paid.
Board of directors to control business.	(386) § 7367. SEC. 7. The business and affairs of any corporation organized under this act shall be under the control and management of a board of directors to be selected as provided for by the articles of association.
Proportion of value insurable.	(387) § 7368. SEC. 8. Any corporation organized under this act shall not insure any logs or timber for more than four-fifths of their actual cash value, at the place where insured.
By-laws.	(388) § 7369. SEC. 9. The directors of any company organized under this act shall have power to make such by-laws, not inconsistent with their articles of association or with the laws of this state, as may be deemed necessary for the government of its officers and the conduct of its affairs, and the same, when necessary, to alter and amend.
Dividends.	(389) § 7370. SEC. 10. Any company organized under this act shall, through its directors, declare an annual dividend out of the surplus profits arising out of their business, if any.
Annual statement, where deposited.	(390) § 7371. SEC. 11. It shall be the duty of the president or vice president and secretary of each stock company organized under this act, annually, on the first day of January, or within one month thereafter, to prepare, under their own oath, and deposit in the office of the commissioner of insurance, a statement of the condition of such company on the thirty-first day of December then next preceding, exhibiting the following facts and items in the following form, namely: First, The amount of the capital stock of the company; Second, The property or assets held by the company, specifying:
What to exhibit.	1. The value, as nearly as may be, of the real estate held by such company.
Amount of stock. Property.	2. The amount of cash on hand and deposited in banks to the credit of the company, specifying in what banks the same are deposited.
	3. The amount due the company on which judgments have been obtained, if any.
	4. The amount due for premiums.
	5. The amount of all other property and investments of the company.
Liabilities.	Third, The liabilities of such company, specifying: 1. The amount of losses due and yet unpaid. 2. The amount of claims for losses resisted by the company. 3. The amount of losses incurred during the year, including those claimed and yet due, and of those reported to the company upon which no action has been taken, if any.

4. The amount of dividends declared and due and remaining unpaid.

5. The amount of dividends declared but not yet due, if any.

6. The amount of money borrowed and security given for the payment thereof.

7. The amount of unearned premiums, if any.

8. The amount of all other existing claims against the company.

Fourth, The income of the company during the preceding year, specifying: Income the preceding year.

1. The amount of cash premiums received.

2. The amount of interest money received, if any.

3. The amount of income received from other sources.

Fifth, The expenditures during the preceding year, specifying: Expenditures the preceding year.

1. The amount of losses paid during the year.

2. The amount of dividends paid during the year.

3. The amount of expenses paid during the year.

4. The amount paid in taxes.

5. The amount of all other payments and expenditures.

(391) § 7372. SEC. 12. The commissioner of insurance is hereby authorized and empowered to address any inquiries to any insurance company formed under this act, or the secretary thereof, in relation to its doings or condition, or any other matter connected with its transaction, and it shall be the duty of any company so addressed to promptly reply in writing to any such inquiries. Every company organized under this act failing to make and deposit such statement, or to reply to any inquiries of the said commissioner of insurance, shall be subject to the penalty of five hundred dollars, and an additional one hundred for every month that such company shall continue thereafter to transact any business of insurance. Commissioner of insurance may make enquiries, etc.

(392) § 7373. SEC. 13. Suits at law may be maintained by any corporation formed under this act against any of its members or stockholders for any cause relating to the business of such corporation; also, suits at law may be prosecuted and maintained by any member or stockholder against such corporation for any losses which may have accrued if payment is withheld more than sixty days after such losses may have become due. Suits at law.

(393) § 7374. SEC. 14. All companies organized under this act shall be subject to all the provisions of the laws of this state in relation to corporations so far as the same are applicable. Subject to laws of state, etc.

An Act to provide for the incorporation of co-operative associations having for their object the insurance of the lives of horses, cattle and other farm stock.

[Act 269, P. A. 1889.]

The People of the State of Michigan enact:

Five or more may incorporate.	(394) § 7375. SECTION 1. That any number of persons not less than five, who shall be citizens of this state, desiring to become a body corporate for the purpose of carrying [on] upon the assessment or cooperative plan, the business of insuring the lives of horses, cattle and other farm stock may, by complying with the provisions hereof, become, with those that may hereafter be associated with them or their successors, a body corporate and politic.
Articles of association.	(395) § 7376. SEC. 2. The persons proposing the formation of such corporation shall associate by signing articles of association in duplicate and acknowledging the same before some officer of this state authorized to take the acknowledgment of deeds and who shall append thereto his certificate of such acknowledgment.
What to state. Names, etc.	(396) § 7377. SEC. 3. Such articles shall state: First, The names of the persons associating in the first instance and their respective residences;
Name, office, etc.	Second, The name by which such corporation shall be known in law, the place in this state where its principal office for the transaction of its business is to be located, and the period for which it is to be incorporated, not exceeding thirty years;
Object.	Third, The object of the incorporation, the number of classes or divisions of members, and the object or purpose of each classification or division, all of which shall be definitely and correctly stated;
Assessments.	Fourth, In what manner and amount assessments, premiums, or payments are to be required from the number, the purposes and objects to which the moneys so realized are to be appropriated, and the names and objects of each fund into which any of such moneys shall be paid;
Officers, and annual meeting.	Fifth, The number of its trustees and regular officers, and the time and place of holding the annual meeting of members;
Miscellaneous.	Sixth, The ages within which such animals shall be insured, and such other matters not inconsistent with this act as may be approved by the attorney general and commissioner of insurance as hereinafter provided.
Articles, who to approve.	(397) § 7378. SEC. 4. Upon the execution and acknowledgment of such articles, the same shall forthwith be submitted to the attorney general and commissioner of insurance for examination, and if such articles shall be found to comply with the provisions of this act, said officers shall respectively indorse the same with their approval, and said
Where filed.	

articles shall thereupon be filed and recorded in the office of the secretary of state and of the clerk of the county in which the principal office of the corporation is located, and a certified copy thereof shall be filed in the office of the commissioner of insurance. Notice of the intention to organize such corporation shall be published for four consecutive weeks in some newspaper published in the county in which its principal office is to be located, and proof of such publication shall be presented to the attorney general at the time the articles of association are submitted to him for examination as aforesaid.

Notice of intention to be published.

(398) § 7379. SEC. 5. Upon the recording and filing of such articles as aforesaid, the signers thereof shall, with those who may thereafter become associated with them, become and be a body corporate and politic for the purpose set forth in said articles. The secretary of state and the county clerk aforesaid shall each certify on said articles the fact of recording as aforesaid, giving the date and book and page of record. The original articles of the record thereof or a copy thereof, certified by secretary of state, shall be prima facie evidence in all proceedings of the due formation, existence and capacity of such corporation; but such articles of association shall become void on the expiration of one year from the day of record thereof, unless a certificate of authority to do business has been issued as hereinafter provided.

To be a body corporate, etc.

Articles to be evidence, etc.

Articles, when void without certificate.

(399) § 7380. SEC. 6. Such corporation shall not commence business unless it shall have procured bona fide agreements for insurance to an amount in the aggregate of not less than ten thousand dollars and shall have received at least one assessment thereon in cash or good and collectible promissory notes from each of such persons according to the rate and plan set forth in its articles of association, which amount so received in cash and by note shall aggregate at least two thousand dollars; not until it has organized by the election of the proper officers and the secretary and treasurer shall have given good and sufficient bonds to the association to be held by the president of the association for the faithful performance of their duties, which bonds shall not be less than five hundred dollars, and shall be at least twice the amount of money liable to come into their hands as such officers at any one time, said bonds to be approved by the commissioner of insurance. The president and secretary of such corporation shall furnish, under oath, to the commissioner of insurance, proof of such agreements for insurance, giving the name, residence, age and amount of insurance applied for by each applicant and the amount of assessment actually paid by each applicant, and also proof of the election and qualification of the officers, and the custodian of the funds of such corporation shall furnish to the commissioner of insurance a certificate, under oath, that he has received and holds in trust for the benefit of the beneficiaries of such applicants the sum of five hundred dollars or more.

When may commence business, etc.

Proof of agreements to be furnished.

Sworn certificate of moneys held in trust.

Authority to
do business.

(400) § 7381. SEC. 7. Upon compliance with the provisions of this act, and upon payment of a fee of ten dollars for the benefit of the state to the commissioner of insurance, he shall issue to the corporation so complying a certificate of authority to do business in this state for the period of one year from the first day of April of the year of its issue, unless the same be sooner revoked.

Trustees,
election of,
etc.

(401) § 7382. SEC. 8. The property, business and affairs of such corporation organized under the laws of this state, shall be managed by not less than five nor more than twenty trustees, to be chosen by and from the members at their annual meeting. They shall hold office for one year, and until their successors are chosen: Provided, It shall be lawful to designate the trustees, who shall be members, for the first year in the articles of association. If for any reason trustees shall not be elected at the annual meeting in any year, the corporation shall not be thereby dissolved or impaired, but an election may be held at any time within one year thereof, to be fixed, and notice thereof to be given by the secretary in the manner hereinafter specified for calling special meetings of the members, and in case of refusal or neglect to call such election, any twenty-five members may call the same upon the same notice as hereinafter provided for calling special meetings of the members. All of such trustees shall be citizens of the United States, and a majority shall be residents of the state of Michigan.

Proviso.

In case of
failure to elect,
etc.

Special
elections.

Qualifications
of trustees.

Officers, etc.

(402) § 7383. SEC. 9. The trustees shall choose from their members such officers as the articles of association or by-laws may prescribe. They may also appoint such agents and employes as may from time to time be required.

Quorum.

(403) § 7384. SEC. 10. A majority of the trustees duly convened according to the by-laws shall constitute a quorum for the transaction of business. The trustees shall adopt by-laws and regulations not inconsistent with the articles of association or the provisions of this act.

By-laws.

Books, etc.,
where kept.

Emergency
fund.

(404) § 7385. SEC. 11. The books, papers and documents of such corporation organized under the laws of this state shall be kept at its principal office, and every such corporation shall provide, in its articles of association, for the accumulation of an emergency fund, which shall not at any time be less than the maximum amount at risk on any one life, which fund, together with the income thereon, shall be a trust fund for the payment of death claims; said fund shall be accumulated within one year from the date of their incorporation. Such fund, with the income thereof, shall be deposited under trust deeds to the credit of the corporate name of the corporation in some incorporated bank or banks, or may be invested by the trustees in its corporate name in such securities as insurance companies are allowed by law to invest their funds. Such corporations organized in this state shall not have the power to take or hold real estate, except such as may be required in the foreclosure of mortgages, and

When may
hold real
estate.

all real estate acquired in the foreclosure of mortgages shall be sold or disposed of within five years after the title has been perfected in any such corporation. Annual statements of the transactions and financial condition of such corporation shall be made at the annual meeting of its members and a copy of each annual statement filed with the insurance department of this state, in so far as it relates to its financial transactions and condition, and its certificate or policy account shall be mailed to every member within thirty days from the date of filing such statement.

Annual
statements.

(405) § 7386. SEC. 12. Every person having property insured in any such corporation organized in this state shall be a member of such corporation, and shall be entitled at all meetings of the members to at least one vote, and may vote in person or by proxy under such rules and regulations as may be provided in the by-laws of such corporation. The books of such corporation or association shall be open for inspection by any member of said organization at any of its meetings.

Members
entitled to
vote.

Books open to
inspection.

(406) § 7387. SEC. 13. Special meetings of the members may be called by the trustees at any time when deemed advisable, and notice of all meetings of the members shall be given by mailing to each member a copy of such notice, postage prepaid, and directed to his last known postoffice address at least fifteen days prior to the time fixed for such meeting, and such notice shall state the time, place, and if it be a special meeting the purpose of such meeting.

Meetings.

(407) § 7388. SEC. 14. Corporations organized in this state shall not take any name in use by any other organization of this state, or so closely resembling such name as to mislead the public as to its identity.

Name.

(408) § 7389. SEC. 15. Every policy or certificate, hereafter issued by any corporation organized in this state and doing business under this act, and promising a payment to be made upon a contingent of death, shall specify the sum of money it promises to pay upon the contingency insured against, and the number of days after the satisfactory proof of the happening of such contingency at which such payment shall be made; and upon the occurrence of such contingency, unless the contract shall have voided by fraud or by breach of its conditions, the corporation shall be obligated to the beneficiary for such payment at the time and to the amount specified in the policy or certificate; and this indebtedness shall have priority over all indebtedness thereafter incurred, except as hereinafter provided in case of the distribution of assets of an insolvent corporation. The commissioner of insurance may investigate the condition of such corporation, and shall have full power in person, by deputy or by department examiners, commissioned by him, to examine the books, papers and accounts, and to examine under oath its officers, agents, clerks and certificate holders, or other persons having knowledge of its business, and if it shall appear to him

Policy to
specify sum
promised as
payment.

Commissioner
of insurance
may investi-
gate, etc.

Report to
attorney
general.
Proviso.

that its liabilities exceed its cash resources, and that it cannot within a reasonable time, not more than three months from the date of the original default, pay such liabilities in full, he shall report the same to the attorney general, who shall, upon such report, institute proceedings as provided in section twenty-two of this act: Provided, In computing the liabilities of such corporation the commissioner of insurance shall compute the reserve fund to be held by such corporation by taking fifty per cent of the cash premiums received upon all risks not expired at the time of making such computation.

Am. 1905, Act 153.

Issuance of
policies.

Examination
of animal and
certificate
thereof.

When policies
are for collateral
security.

Policy, when
void.

Foreign corporations,
conditions of,
doing business
in this state.

(409) § 7390. SEC. 16. Corporations organized, doing business in this state under or by virtue of the provisions of this act, shall not issue any policy or certificate of membership upon the life of any animal in which the beneficiary has not an insurable interest, nor unless the animal whose life is proposed for insurance has undergone a careful physical examination by some competent examiner, who shall make a detailed certificate thereof, to be attached to such application, showing that the animal sought to be insured is in good health, and recommending the issue of the certificate or policy applied for. Such corporations shall not issue policies or certificates to beneficiaries as creditor or creditors, that do not state that they are for collateral security, payable as the interests of such beneficiaries may appear, and in every such case said creditor or creditors shall only be entitled to such portion of the amount insured (not exceeding the face of the policy or certificate) as shall cover the indebtedness of the member to said creditor at the date of the death of the animal insured, and proof of said indebtedness shall be made under oath, and the member may designate in such certificate some beneficiary within the above limits to whom such certificates shall be payable after the claims of such creditors have been satisfied. Any certificate or policy issued in violation of the above provisions shall be void as to the beneficiary named, but the amount thereof shall, in case of death, be payable to the heirs of the member.

(410) § 7391. SEC. 17. No corporation or association organized or doing business under or by virtue of the laws of any other state or territory of the United States or District of Columbia, or foreign country, for the purpose of insuring the lives of animals upon the co-operative assessment plan, shall be authorized to do business in this state until it shall have obtained a certificate of authority from the commissioner of insurance of this state as hereinafter provided; not unless the state or territory of the United States or District of Columbia, or foreign country, under whose laws such corporation or association is organized, shall extend the

right to such corporations so organized in this state, to do business in such state or territory of the United States or District of Columbia, or foreign country, upon similar conditions to those in this act prescribed. When any other state or territory of the United States or District of Columbia, or foreign country, shall impose any obligation upon any such corporation of this state, the like obligation shall be imposed on similar corporations and their agents of such state or territory of the United States or District of Columbia, or foreign country, doing business in this state. Such foreign corporation or association shall furnish to the commissioner of insurance of this state certified copies of its articles of association or charter, and its by-laws, together with a sworn statement of its business of the preceding year, giving in detail the same information as is required by the annual statement of corporations organized hereunder, together with a copy of its certificate or policy, and a certificate under oath, of its president and secretary that it has in force policies of insurance on which the proceeds of one assessment will pay the highest amount insured upon each of the lives of animals for which the assessment is levied, the full amount agreed to be paid upon the death of any one animal, and that it is paying, and for the twelve months next preceding has paid, the highest amount named in its policies or certificates in full. Such foreign corporation or association shall also appoint some citizen and resident of this state its attorney upon whom all process against said corporation or association may be served, and shall also agree that such service may be made upon the commissioner of insurance of this state, who shall be deemed its agent for that purpose, and such agent or commissioner shall immediately mail to the secretary of such corporation or association a certified copy of the process thus served. All papers above referred to shall be preserved in the office of the commissioner of insurance. Such foreign corporations or associations shall also furnish to the commissioner of insurance of this state a certificate from the insurance department, if any, of its home state or territory of the United States or District of Columbia, or foreign country, that it is authorized to do business in such home state or territory of the United States or District of Columbia, or foreign country, and shall also, if the commissioner of insurance of this state requires, submit to a full examination of its business and affairs by the commissioner of insurance, or by some person designated by him and at his own expense.

(411) § 7392. SEC. 18. Upon compliance with the provisions of the preceding section, and the payment to the commissioner of insurance for the use of the state, a fee of twenty-five dollars, he may issue to the corporation or association so complying a certificate of authority to do business within this state for a period of one year from the first day of April of the year of its issue, unless the same be sooner revoked: Provided, That such certificate of authority to do

Requirements.

Resident
attorney.Service of
process.Commissioner
of insurance
may issue
certificate.

Proviso.

	business in this state shall not be issued unless such corporation is doing business in conformity with the provisions of this act.
Unlawful to act as agent, etc., for company not authorized.	(412) § 7393. SEC. 19. No person shall, within the state, act as agent, solicitor, officer, trustee or otherwise, in receiving or procuring applications for insurance in any assessment or co-operative corporation or association (except for the purpose of taking such applications preliminary to organization), or transact or carry on any business of such corporation or association, unless such corporation or association for which he is so acting shall then be authorized, as provided in this act, to do business within this state; and no person shall collect, receive or remit any money or assessments, or otherwise, for any company not authorized to do business in this state. And any person who shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall, for each offense, be punished by a fine not exceeding five hundred dollars and the cost of prosecution, or by imprisonment in the county jail not to exceed three months, or by both such fine or imprisonment, in the discretion of the court; and the prosecuting attorney of the proper county shall prosecute persons charged with violations of this section. If the commissioner of insurance shall receive evidence to satisfy him of the violation of any of the provisions of this act it is hereby made his duty to investigate the same, by himself or his deputy, and if, in his opinion, sufficient evidence is found to convict of such violation, to notify the attorney general thereof, and he shall cause a complaint to be entered against the person or persons offending, and the necessary traveling expenses under this section shall be audited by the board of auditors and paid from the general fund.
Penalty.	
Duty of commissioner concerning violations.	
Business year.	(413) § 7394. SEC. 20. The business year of every corporation or association organized, existing or doing business in this state under and by virtue of the provisions of this act, shall close on the thirty-first day of December in each year, and every such corporation or association shall, within sixty days thereafter, prepare under oath of the president and secretary, and file in the office of the commissioner of insurance of this state, a detailed statement showing its assets, and how invested, liabilities, receipts from assessments and all other sources, and an itemized account of all expenditures, salaries of officers, number of policies or certificates in force, the amount insured thereby, death losses and benefits paid, and amount paid on each death loss, death losses reported but not paid, death losses contested, and why, and shall answer such other questions as the commissioner, who shall furnish blanks for the purpose, may require, in order to ascertain its true financial condition, and shall pay to the state, upon filing each annual statement, a fee of five dollars for each Michigan corporation, and twenty-five dollars
Annual statements, contents of.	
Fee.	

for each foreign corporation. The commissioner shall publish such annual statements in detail in his annual report, for the purpose of verifying any such statement, or of ascertaining the true condition of the corporation or association making it. The commissioner may, at any time, make or cause to be made an examination of the affairs of any such corporation or association doing business under this act at the expense of such corporation or association, which expense shall not exceed the necessary hotel and traveling expenses of the commissioner and one clerk: Provided, That if the commissioner finds it necessary to appoint some person not employed in his office to make such examination, the corporation or association examined shall pay him, in addition to the expenses above referred to, the reasonable charges of the person so appointed, not exceeding five dollars a day for the time actually employed. Any foreign corporation or association shall also furnish to the commissioner certified copies of all charges, if any, in its organization, or plan of doing business, and satisfactory evidence that it is still authorized to do business in its home state or territory of the United States, or District of Columbia, or foreign countries.

Annual statement to be published.

Commissioner may make examinations.

Proviso.

Expenses in certain cases.

Additional requirements.

(414) § 7395. SEC. 21. Upon the filing of any annual statement, if the commissioner shall find that the corporation or association making the same is still organized and doing business in conformity to the provisions of this act, he shall issue his certificate authorizing such corporation or association to do business in this state for a period of one year from the first day of April of the year it is issued unless sooner revoked.

Certificate to be furnished by commissioner.

(415) § 7396. SEC. 22. Whenever any corporation or organized, existing or doing business under or by virtue of the provisions of this act shall fail to make the annual statement required by this act, or whenever the commissioner of insurance shall, after a full examination of its affairs, find sufficient evidence that such corporation or association is conducting its business fraudulently, or not in compliance with the provisions of this act, or is not carrying out its contract with its members in good faith, he shall immediately report to the attorney general such evidence and copies of any papers, statements, or report in his office relating to the matter. Upon receiving such evidence, papers, and reports, the attorney general, if he is satisfied from the evidence, papers, statements or reports, that such corporation is conducting its business fraudulently or not in compliance with the provisions of this act, or is not carrying out its contracts with its members in good faith, shall, if it be organized under the laws of any other state or territory of the United States, or District of Columbia, or foreign country, immediately notify the corporation or association to cease to do business in this state under pain of the penalties prescribed by law, and he shall also instruct the prosecuting attorney of the proper countries to prosecute for all violations of this act.

Failure to make annual statement, etc.

Commissioner to report to attorney general.

Attorney general may notify foreign corporation to cease doing business.

Proceedings
against other
than foreign
corporations.

Removal of
officers, etc.,
by court.

Appointment
of receiver.
His powers.

Liability of
members.

Penalty for
fraudulent
statement, etc.

Amendments
of articles of
association.

But if such corporation or association be organized and created by the laws of this state, the attorney general shall at once institute proceedings in such form as he shall deem advisable, in the name of the people of the state of Michigan, in the circuit court in chancery of the county in which the principal office of such corporation or association is located, of which proceedings such corporation or association shall have such notice as the court shall direct, and may bring before such court all the officers of such corporation or association, and such court shall cause a full hearing to be had of all the facts and circumstances relating to the business and condition of such corporation or association, and such court may, if it shall appear for the best interests of the members, after a full hearing as aforesaid, remove any or all of the officers of such corporation or association and appoint others in their place until the next annual meeting or election, or may decree that such corporation or association be deemed to have forfeited its corporate existence and direct its affairs to be wound up, and for that purpose may appoint a receiver thereof, and regulate and control the acts and proceedings of such receiver. Such receiver may, under the direction of the court, transfer the members of such corporation or association, who consent thereto, to some other similar solvent Michigan corporation or association, with its consent, to be selected by the insured or by the court, or said receiver may, by order of the court, continue the business for the purpose of paying all death claims which have occurred at the time of his appointment, which claims shall be deemed preferred claims, and he may, by such order, be directed to make assessments upon all members liable therefor, but only to the extent to which they are liable according to the rates and plans and under the contract by which they are severally insured, for the purpose of paying such death losses and the expenses of making such assessments and of such receivership, or he may be ordered to divide and distribute any accumulated funds among the members entitled thereto.

(416) § 7397. SEC. 23. Any agent or other person who shall, by means of concealment or false or fraudulent statements or representations, secure, or assist in securing, from any such corporation or association, a policy on the life of any animal, shall be deemed to be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not to exceed five hundred dollars, or by imprisonment in the county jail not to exceed one year, or by both such fine and imprisonment, in the discretion of the court.

(417) § 7398. SEC. 24. Any corporation or association whose purpose it is to insure the lives of animals upon the assessment plan, that may hereafter be organized under the provisions of this act, may amend its articles of association at any regular or special meeting of the members duly called, such amendments having been concurred in by a majority of the members present and voting upon such amendment; but

such amended articles shall not take effect until they shall have been examined, approved and recorded in the manner provided in section four of this act.

(418) § 7399. SEC. 25. Every notice of assessment or call made by any corporation or association organized hereunder shall specify the amount to be paid, the loss for the payment of which the call or assessment is made, and the time and place of the payment of the same, together with the correct statements of the fund and the emergency fund, showing the receipts, disbursements and balances. No funds or moneys received or collected by any corporation or association organized hereunder for the purpose of paying or providing for the payment of death losses shall be used or paid out for any other purpose whatever.

Notice of assessment, contents of.

Disposition of moneys.

(419) § 7400. SEC. 26. The proceeds of any certificate or any policy issued by any such corporation or association, except such as are expressly made payable to a creditor or the legal representative of a member, shall be payable in case of death or accident to the beneficiary named therein free from all claims of the representatives of such member or any of his creditors.

Proceeds of policy payable to beneficiary.

(420) § 7401. SEC. 27. No policy or certificate issued by any corporation or association doing business under the provisions of this act shall be canceled for the non-payment of any assessment or the non-payment of dues, without first having mailed to the holder of such policy or certificate, at his or her last known postoffice address, the following notice by registered letter:

Cancellation of policy for non-payment of assessment.

You are hereby notified that assessment No.... on policy or certificate No.... has not been paid. Unless the amount of \$...., the amount due on said assessment, and fifty cents as charges for this notice, is paid within ten days from the date hereof, your policy or certificate will be canceled.

Notice.

An Act to authorize and regulate within this state the business of plate glass, accident, live stock, steam boiler, and fidelity insurance, and to repeal acts number forty-two and seventy-two of the session laws of eighteen hundred and seventy-seven.

[Act 237, P. A. 1881.]

The People of the State of Michigan enact:

(421) § 5110. SECTION 1. No company, association, individual or association of individuals, formed under the laws of this or any other state or foreign government, whether incorporated or not, shall directly or indirectly transact the business either of plate glass, accident, employers' liability, live stock, health, burglary, steam boiler, credit or casualty

Not to transact business without certificate.

insurance, or insure the fidelity of persons holding public or private trust in this state, without receiving a certificate of authority from the commissioner of insurance.

Am. 1901, Act 190.
Construction of credit guaranty policy.—*Sloman v. Credit Guarantee Co.*,
112 / 258.

Amount of
capital
necessary.

Deposit.

With state
treasurer or
other state
officer.

(422) § 5111. SEC. 2. No such company or association shall be authorized by the commissioner of insurance to transact business in this state unless possessed of an actual paid up capital of at least one hundred thousand dollars and a deposit of at least one hundred thousand dollars with the state treasurer of this state, or with the chief financial officer or commissioner of insurance of the state where such company or association is organized, duly assigned to such officer in trust for the benefit of all policy holders. Said deposit shall consist of bonds or stocks of the United States or of the state where such company or association is organized, or of bonds and mortgages on improved unincumbered real estate worth double the sum loaned thereon. The market value of such deposited securities shall at all times be equal to one hundred thousand dollars: Provided, however, That when any such company or association incorporated by or under the laws of any foreign government and doing business in any other state of the United States, are required by the statutes of such state to keep on deposit with the state treasurer, or other state officer, securities for the protection of policy holders in the United States, and any such company shall furnish to the commissioner of insurance of this state the certificate of the proper officer of such other state, showing the amount and character of the securities so deposited with him, and it shall appear therefrom that the said securities are equal in market value and availability to one hundred thousand dollars, and that a portion equal to fifty thousand dollars are of state or United States bonds, and it shall further appear from the laws of such other state that the securities so deposited are subject to be made available to satisfy judgment [judgments] of policy holders in any manner corresponding to that provided for the care of securities deposited under the provisions of chapter one hundred and thirty-one, Howell's statutes, relating to life insurance, and referred to in section four thousand three hundred and twenty-six of this act, the commissioner of insurance shall thereupon be authorized to issue authority to such foreign company to transact business in this state without any such deposit of securities with the state treasurer of this state.

Chapter 131, above referred to, is chapter 3 of this compilation. Section 4326 referred to is the next section.

Companies to
appoint attor-
ney to receive

(423) § 5112. SEC. 3. Such individuals, companies or associations shall be required to comply with the laws of this state regulating the business of life insurance, in re-

spect to the appointment of an attorney to receive process, and making annual statements of financial conditions, and with all the other requirements as far as applicable, and shall, as a condition precedent to the renewal of an annual certificate by the commissioner of insurance, make and file in the office of the state treasurer, annually, in the month of January of each year, on oath or affirmation, a statement of the number of policies issued by its agents and procured by or written for sub-agents, solicitors or brokers upon property owned by residents of, or situate in the state of Michigan; also, a like statement of the accident or fidelity insurance business transacted in the state of Michigan, and the gross amount of premiums received or secured thereon, during the year then terminated; and shall pay into the hands of the state treasurer a specific tax of two per cent on the gross amount of all premiums received in money or securities during the said year, which said specific tax may be recovered from any company neglecting or refusing to pay the same in any court at the suit of this state, and shall be and hereby is appropriated to the same uses and purposes as the specific tax on such corporations are or hereafter may be; and it shall be the duty of the state treasurer to give his receipt for all moneys paid into the state treasury under the provisions of this act. The commissioner of insurance shall compute the reserve fund to be held by such companies or associations by taking fifty percentum of the premiums received upon all risks not expired at the time of making such computation. And in addition thereto in the case of corporations doing an employers' liability insurance, the commissioner of insurance shall compute the liabilities for unsettled claims in said employers' liability insurance business at not less than fifty per cent of the premiums received and earned during each and every year less the amount paid for losses and expenses incidental thereto, upon claims brought under policies issued during said year: Provided, That such reserve shall not be computed for more than the five years previous to the time of making such computation: Provided further, That to the amount of the reserve so ascertained, there shall be added such amount as is necessary to provide for claims of earlier date, not liquidated. Whenever the capital of any company or association authorized under this act shall become impaired to the extent of fifteen per cent or shall otherwise become unsafe, it shall be the duty of the commissioner of insurance to cancel the authority of such company or association.

Annual report.

Shall pay
specific tax.Duty of state
treasurer.Reserve fund,
how com-
puted.Liability
insurance.

Proviso.

Further
proviso.When au-
thority of
company
canceled.

Am. 1901, Act 190; 1905, Act 137.

(424) § 5113. SEC. 4. The words "company" or "associations" as used in this act shall be construed to mean any company, association, corporation, partnership, individual or association of individuals doing or attempting to do business

Word "com-
pany," how
construed.

in this state under any charter, compact, agreement or statute of this or any other state or foreign government, or whether incorporated or not, involving a guaranty contract or pledge of insurance upon plate glass or steam boilers, or upon the life of domestic animals and loss by disease, accident, or theft of such animals owned or located in this state, or upon individuals, residents of this state, against disease or against personal injury, disablement or death resulting from accident, or against loss from burglary, theft or both, or against any other casualty specified in the charter which may lawfully be the subject of insurance, or guaranteeing the fidelity of any person holding public or private trust, or involving any contract to guarantee and indemnify merchants, traders, and those engaged in business and giving credit, from loss and damage by reason of giving and extending credit to their customers and those dealing with them.

Am. 1901, Act 190.

Agents to
procure
authority.

(425) § 5114. SEC. 5. It shall not be lawful for any person to act within this state as agent or otherwise in receiving or procuring applications, or in any manner, directly or indirectly, to aid in transacting the business of insurance permitted by this act, without procuring from the commissioner of insurance a certificate of authority. Such authority shall designate the name of the person authorized and the name of the company or association for which he is to act as agent, and the special kind of insurance to be solicited: Provided, That nothing in this act contained shall apply to mutual accident associations organized under the laws of this state.

Proviso.

Penalty for
violation of
act.

(426) § 5115. SEC. 6. Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not less than two hundred and fifty dollars and shall be imprisoned in the county jail until such fine is paid, not exceeding six months. It shall be the duty of the commissioner of insurance to notify the attorney general in writing of any offense under this act which may come to his knowledge, and it shall thereupon become the duty of such attorney general to at once cause proceedings to be taken for the punishment thereof.

Sec. 7 repeals the acts mentioned in the title.

CHAPTER IX.—INTEGRITY AND FIDELITY INSURANCE.

An Act to provide for the incorporation of mutual integrity companies for the purpose of insuring to employers the integrity of their officers, agents and employes.

[Act 156, P. A. 1897.]

The People of the State of Michigan enact:

(427) § 7337. SECTION 1. That any number of persons residents of this state not less than five, desiring to become a body corporate, on the mutual plan for the purpose of insuring to employers the integrity of their officers, agents and employes, may, by complying with the provisions of this act, become, with such other persons as may thereafter become associated with them a body corporate for the purpose above stated. Who may incorporate.

(428) § 7338. SEC. 2. The persons proposing to form such corporation shall associate by signing articles of association in duplicate and acknowledge the same before some officer of this state duly authorized to take acknowledgment of deeds. Articles of association to be in duplicate.

(429) § 7339. SEC. 3. Such articles shall state:

First, The names of the persons associating in the first instance and their respective residences; Articles of association to state, what.

Second, The name by which such corporation shall be known;

Third, The period for which the association is incorporated which shall not exceed thirty years;

Fourth, The number of directors which shall not be less than five nor more than fifteen, and the names of the directors for the first year;

Fifth, The place where the office of the company shall be located, which shall be within the state of Michigan;

Sixth, The object of the said corporation.

(430) § 7340. SEC. 4. After the execution of the articles of association, and when bona fide agreements from members shall have been obtained for insurance amounting to not less than one million dollars, said articles and agreements shall be submitted to the commissioner of insurance. If he shall find that the articles conform to the provisions of this act, and that bona fide agreements for insurance to the amount stated have been secured, he shall thereupon endorse his certificate to that effect upon said articles. Upon filing said articles, with the endorsement aforesaid, with the commissioner of insurance and with the county clerk of the county in which the office of the company is by its articles located, the persons executing such articles, with such other persons as may thereafter become associated with them, shall To be submitted to commissioner.

When declared body corporate.

	become and be a body corporate for the purposes set forth in this act.
Directors, when chosen.	(431) § 7341. SEC. 5. The business and affairs of the corporation shall be managed by the board of directors. Such directors shall be chosen annually at a meeting of the members of the said company to be held upon the third Wednesday of January in each year, and shall hold office until their successors are elected.
Special meetings.	(432) § 7342. SEC. 6. Special meetings of members may be held at such times and upon such notice as the by-laws may prescribe. At all meetings of the members each member shall be entitled to one vote for each five thousand dollars of insurance or fraction thereof, which such member shall hold in the corporation. A majority of votes entitled to be cast shall constitute a quorum, and a majority of the votes cast at any meeting at which a quorum is present shall decide all questions coming before such meeting.
Who may vote.	
Corporations may become members.	(433) § 7343. SEC. 7. Any bank, trust company or other company organized under the laws of this state or of the United States or of any of the several states, shall be a person within the meaning of this act and may become a member of such corporation, either as an incorporator in the first instance or thereafter as a member holding insurance in the company so organized. Any such bank, trust or other company desiring to associate as an incorporator of any company organized under this act, shall cause the articles of association aforesaid to be signed for it by two of its officers, who shall duly acknowledge the execution thereof, and any officer of any such bank, trust company or other company so becoming a member of any corporation organized under this act shall be qualified to act as a director of such corporation.
Officers of association, when chosen.	(434) § 7344. SEC. 8. Immediately after the annual election, the directors shall choose from their number a president and vice president, and shall also choose a secretary and a treasurer, who shall hold their offices for one year or until their successors are chosen.
Quorum.	(435) § 7345. SEC. 9. A majority of the directors, when convened according to the by-laws, shall constitute a quorum for the transaction of business.
By-laws.	(436) § 7346. SEC. 10. The directors shall have power to enact such by-laws, not inconsistent with this act, for the management of the business of the company, as they may deem proper.
Guarantee fund, how provided.	(437) § 7347. SEC. 11. Any company organized under the provisions of this act shall, before commencing business, subscribe and pay in an original guarantee fund of not less than twenty-five thousand dollars. Any of the members of such company may subscribe to such original guarantee fund. After providing for the payment of expenses and losses and such appropriation to the guaranty fund as the directors may determine out of the annual premiums, the remainder

shall be appropriated: First, to the payment of interest to the persons contributing to such original guaranty fund according to their respective contributions, at a rate not to exceed eight per cent per annum, the balance remaining to be paid to the members pro rata according to the amount of premiums paid by each. Such guaranty fund shall be invested in such securities as are permitted to insurance companies under the laws of this state, and shall be liable to pay any expenses or losses not provided for by the annual premiums or other accumulated funds of such company. When the guaranty fund hereinafter provided for shall have reached an amount equal to the original guaranty fund, the directors may, in their discretion, retire not to exceed fifty per cent of such original guaranty fund, and for all increase of the guaranty fund hereinafter provided for above the amount of the original guaranty fund an amount of such original guaranty fund not to exceed fifty per cent of such increase may also be retired: Provided, however, That if at any time the amount of the guaranty fund hereinafter provided for and the original guaranty fund shall fall below the amount of the original guaranty fund, the commissioner of insurance may order the company to cease doing business until the amount of the original guaranty fund is made good.

Surplus funds, how appropriated.

Guaranty fund, how invested.

When portion of guaranty fund may be retired.

(438) § 7348. SEC. 12. The directors shall have power to fix annual premiums for insuring the integrity of officers, agents and employes of members, and to issue policies of insurance for that purpose in accordance with the provisions of this act. Such premium shall be fixed at an amount sufficient to provide for the expense of conducting the business of the company, the payment of any probable losses, and the payment of not more than twenty per cent of such premium into a guaranty fund to provide for future expenses and losses.

Directors to fix premiums and issue policies.

(439) § 7349. SEC. 13. Upon January first of each year the directors shall determine the expenses and losses for the preceding year, and shall fix the amount, not exceeding twenty per cent of premiums received, to be paid into the guaranty fund; and, after deducting such amount from the premiums received during the preceding year, shall repay the balance remaining to the members pro rata according to the premiums paid by them.

Directors to determine expenses and losses, when.

(440) § 7350. SEC. 14. The moneys paid into the guaranty fund shall be invested in such securities as are permitted to insurance companies under the laws of this state. The directors may appropriate from time to time, such portion of said fund as they may deem expedient to meet the expenses and losses of the company during any year.

Guaranty fund to be used, when.

(441) § 7351. SEC. 15. All policies shall date from January first, and shall continue from year to year unless otherwise terminated. All policies written during any year shall run until January first following, and then from year

Policies, when to begin.

Premiums, to be paid in advance.	to year, a pro rata proportion of the annual premium being paid when the policy is issued. All annual premiums shall be paid in advance upon January first of each year, and if such premium is not paid before February first, such policy shall lapse, and all right in the company of the holder of such policy and his membership shall cease and determine.
Insurance may be increased or diminished.	The amount of insurance held by any member may be increased or diminished at any time under suitable regulations of the board of directors.
Business year, when to close.	(442) § 7352. SEC. 16. The business year of every corporation or association organized, existing or doing business in this state under and by virtue of the provisions of this act shall close on the thirty-first day of December in each year, and every such corporation or association shall within sixty days thereafter, prepare under oath of its president and secretary and file in the office of the commissioner of insurance of this state a detailed statement showing its assets and how invested, liabilities, receipts from premiums and all other sources, an itemized account of all expenditures, salaries of officers, number of policies or certificates in force, amount insured thereby, claims paid and amount paid on each claim, losses reported but not paid, claims contested and why, and shall answer such other questions as the commissioner (who shall furnish blanks for that purpose) may require in order to ascertain its true financial condition, and shall pay to the state, upon filing each annual statement, a fee of five dollars. The commissioner shall publish such annual statements in detail in his annual report, and for the purpose of verifying any such statement, or of ascertaining the true condition of the corporation or association making it, the commissioner may at any time make or cause to be made an examination of the affairs of any such corporation or association doing business under this act at the expense of such corporation or association, which expense shall not exceed necessary hotel and traveling expenses of the commissioner and one clerk: Provided, That if the commissioner find it necessary to appoint some person not employed in his office to make such examination, the corporation or association examined shall pay in addition to the expenses above referred to the reasonable charges of the person so appointed, not exceeding five dollars a day for the time actually employed.
Report.	
Commissioner may examine affairs of association.	
Commissioner may appoint special examiner.	

An Act relative to bonds and other obligations, with surety or sureties, and the acceptance as surety thereon of companies qualified to act as such, and the release of such surety, and the safe depositing of assets for which such surety may be liable, and to the charging by fiduciaries of the expense of procuring sureties, and repealing all laws in conflict therewith.

[Act 266, P. A. 1895.]

The People of the State of Michigan enact:

(443) § 5196. SECTION 1. Whenever any bond, undertaking, recognizance or other obligation is by the law of the state or by the charter, ordinances, rules or regulations of any municipality, board, body, organization or public officer, or in any judicial or other proceeding required or permitted to be made, given, tendered or filed with the surety or sureties and whenever the performance of any act, duty or obligation, or refraining from any act is required or permitted to be guaranteed, such bond, undertaking, obligation, recognizance or guaranty, may be executed by a surety company, qualified to act as surety or guarantor as hereinafter provided, and such execution by such company of such bond, undertaking, recognizance, obligation or guaranty shall be in all respects a full and complete compliance with every requirement of every law, charter, ordinance, rule, regulation or order, that such bond, undertaking, obligation or recognizance or guaranty shall be executed by one surety, or by one or more sureties, or that such sureties shall be residents or householders or freeholders or either or both, or possess any other qualifications: Provided, That such sureties companies shall in no case be accepted as surety on any recognizance for the appearance of persons charged with crime: Provided further, That where any bond is required for the sale of liquors under the laws of this state, such bonds shall not be executed by any surety company as herein provided, except by and with the consent and approval of the township board, or of the board of trustees or of the common council of any village or city, as the case may be, within which said bond is required to be filed: And provided further, That the bond of such surety company shall not be accepted by said township board, common council or a board of trustees, unless such surety company shall be a corporation of the state of Michigan, organized and existing under the laws of the state of Michigan, and with a capital stock of not less than five hundred thousand dollars: Provided, That whenever a majority of the qualified electors of any township, village or city equal to a majority of the votes cast for governor at the last general election shall file a petition with the township board of any township, board of trustees, council or common council of any village or city, protesting against the acceptance of the bonds offered by ar-

Authorizing
surety com-
panies to go
on bonds.

Bail bonds.

Approval of
bonds.

A Michigan
corporation.

When unlaw-
ful to accept.

individual, firm or corporation proposing to engage in the sale of intoxicating liquors at retail, it shall be unlawful for such township board of such township, board of trustees, council or common council of any village or city to accept such bonds: And provided further, That such bonding company or companies shall not charge more than ten dollars per thousand dollars for going on such liquor bond or bonds: Provided further, That suits may be commenced in the circuit court in any county where the plaintiff resides, by declaration or writ, and service shall be made in such cases only upon the commissioner of insurance in like manner and with like effect as is provided for the service of process upon societies, orders or associations organized under the laws of any other state, province or territory and doing business in this state, and not having its principal office within this state, and for the purpose of service of process as herein provided such surety company shall appoint in writing the commissioner of insurance, or his successor in office, to be its true and lawful attorney.

Charge.

Suits, how commenced.

Am. 1907, Act 321.

This act is complete in itself and constitutional.—*Steel v. Aud. Gen.*, 111 / 381. It does not authorize the taxation as costs of a charge paid to a surety company for becoming security on an appeal bond, where the party does not occupy the relation of fiduciary.—*Somerville v. Wabash Railroad Co.*, 111 / 51. This section was evidently designed to permit the substitution of one surety, in case it should be a corporation organized under this act, in place of two, required by other provisions of law; and where no act of acceptance is required, but the giving of such bond is required by law, such bond, as executed, is declared sufficient.—*Schmitt v. Clinton Com. Council*, 111 / 102.

When it shall be lawful to accept one surety.

(444) § 5197. SEC. 2. In any cause, matter or proceeding where, by the laws of this state, the giving of any bond is required or permitted, and more than one surety is required, it shall be lawful for the court, officer or person who is authorized or required by law to approve and accept such bond, to accept and approve a bond with but one surety, provided the surety thereto is a corporation qualified to act as surety or guarantor as hereinafter provided.

The language of this section is permissive only.—*Schmitt v. Clinton Com. Council*, 111 / 102.

What companies are qualified.

(445) § 5198. SEC. 3. That such company, to be qualified to so act as surety or guarantor, must be authorized under the laws of the state where incorporated and under its charter to guarantee the fidelity of persons holding places of public or private trust, and to guarantee the performance of contracts other than insurance policies, and to execute bonds and undertakings required or permitted in actions or proceedings or by law allowed; must comply with the requirements of the laws of this state applicable to such company, in doing business therein; must have good available assets in excess of its liabilities, which said liabilities, however, shall for the purposes of this act, be taken to be its capital stock, its outstanding debts, and a premium reserve

at the rate of fifty per centum of the annual premium on all outstanding obligations in force; must file with the insurance commissioner a certified copy of its charter or act of incorporation, a written application to be authorized to do business under this act and a statement signed and sworn to by at least two of its officers, stating the amount of its paid up cash capital, particularizing each item of investment, the amount of premium on existing bonds upon which it is surety, the amount of liability for unearned portion of such premiums, estimated at the rate of fifty per centum of the annual premium on all outstanding obligations; stating also the amount of its outstanding debts of all kinds, and such further statement similarly verified as may be by the laws of this state required of such company in transacting business therein. And if such company be organized under the laws of this state, it must have an unimpaired, safely invested capital of at least two hundred thousand dollars; must have at least one hundred thousand dollars invested in securities created under or by the laws of the United States, or of this state, the value of which shall be at or above par and shall be deposited with or held by the state treasurer of this state in trust for the benefit of the holders of the obligations of such company; and if such company be organized under the laws of any other state than this state, it must have a fully paid up and safely invested and unimpaired capital of at least two hundred and fifty thousand dollars, and have at least two hundred thousand dollars in good, dividend paying or interest bearing stock or securities created under or by virtue of the laws of the United States or of the state where it is incorporated, or of good, solvent, dividend paying corporations, or in first mortgages on unincumbered real estate worth at least double the amount loaned thereon, which said stocks, securities or mortgages shall be at or above par in value and be deposited with or held by the state officer or officers of not more than two states wherein the company is authorized to do business in trust, for the benefit of the holders of the obligations of such company; must appoint an attorney in this state on whom process of law can be served, and file in the office of the insurance commissioner a written statement duly signed and sealed, certifying such appointment and which shall continue until another attorney is substituted.

Certified copy of charter to be filed with insurance commissioner.

Capital, how invested.

Must appoint an attorney.

(446) § 5199. SEC. 4. That upon production of proof to the insurance commissioner by such company that it possesses the qualifications by this act required and has complied therewith, he shall issue to such company and such of its agents in this state, his certificate that such company is for the ensuing year authorized to become and be accepted as sole surety on all bonds, undertakings and obligations, required or permitted by law, or by the charter, ordinances, rules and regulations of any municipality, board, body, organization or public officer, which said certificate shall be conclusive proof of the solvency and credit of such company

Insurance commissioner to issue certificates.

for all purposes and of its right to be so accepted as such sole surety and its sufficiency as such.

The provision that the certificate shall be conclusive proof of solvency and credit does not preclude the proper board or officer from exercising discretion.—Schmitt v. Clinton Com. Council, 111 / 102.

Company to
file statement
annually.

(447) § 5200. SEC. 5. That such company shall also annually, during the month of January, file with the insurance commissioner a statement similar to that hereinbefore in section two of this act provided for, made up to the thirty-first day of December next preceding, together with a certificate from the officer with whom the deposit in section two of this act specified is required to be made, describing such securities so deposited and the manner in which they are held by him, and stating that he is satisfied that such securities are fully worth the amount so required by said section two of this act to be deposited and also furnish said insurance commissioner with such further statement as may be by the laws of this state required of such company; and upon the filing of such annual statement and the proof of such facts, said insurance commissioner shall thereafter issue to such company and each of its agents in this state his certificate that such company is for the ensuing year authorized as in section three of this act provided, which said certificate shall be proof as in such section specified.

When lawful
to require
deposits to be
made.

(448) § 5201. SEC. 6. That it shall be lawful for any party of whom a bond or undertaking is required, and whose surety thereon is such a company, to agree with such surety, for the deposit of any and all moneys and other depositable assets for which such surety is or may be held responsible, with a trust company, safe deposit company or bank, authorized by law to transact business as such in this state, if such deposit is otherwise proper, in such manner as to prevent the withdrawal of such moneys and assets or any part thereof, except with the written consent of such surety, or an order of the court made on such notice to them as such court may direct.

This section has no application to the state treasurer's bond. That bond falls within the exception of this section.—Steel v. Aud. Gen., 111 / 381.

When sureties
may be re-
lieved from
liability.

(449) § 5202. SEC. 7. Such surety or the representative of any such surety upon the bond of any trustee, conservator, guardian, assignee, receiver, executor or administrator or other fiduciary may apply by petition to the court wherein such bond is filed or which may have jurisdiction of such trustee, conservator, guardian, assignee, receiver, executor or administrator, or to a judge of said court praying to be relieved from such liability as such surety, for the acts or omissions of the trustee, conservator, guardians, assignee, receiver, executor or administrator or other fiduciary which may occur after the date of the order relieving such surety, to be granted as herein provided for, and to re-

quire such trustee, conservator, guardian, assignee, receiver, executor or administrator, or other fiduciary, to show cause why he should not account, and such surety be relieved from such future liability as aforesaid, and such principal be required to give a new bond, and thereupon, upon the filing of such petition the court in term time, or a judge thereof in vacation, shall issue an order to show cause, returnable at such time and place and to be served in such manner as such court or judge may direct, and may restrain such trustee, conservator, guardian, assignee, receiver, executor or administrator or other fiduciary from acting, except in such manner as it may direct to preserve the trust estate; and upon the return of such order to show cause, if the principal in the bond account in due form of law and file a new bond, duly approved, then such court or judge may make an order releasing such surety, filing the petition as aforesaid, from liability upon the bond for any subsequent acts or defaults of such principal, and in default of such principal thus accounting and filing such new bond, such court or judge must make and order, directing such trustee, conservator, guardian, assignee, receiver, executor or administrator or other fiduciary, to account in due form of law, and that if the trust fund or estate shall be satisfactorily accounted for and delivered or properly secured, such surety shall be discharged from any and all further liability as such, for the subsequent acts or omissions of the trustee, conservator, guardian, assignee, receiver, executor or administrator, or other fiduciary, after the date of such surety being so relieved and discharged, and discharging such trustee, conservator, assignee, receiver, executor, or administrator, or other fiduciary.

(450) § 5203. SEC. 8. That any receiver, assignee, guardian, conservator, trustee, executor or administrator, or other fiduciary, required by law or the order of any court or judge to give a bond as such, may include, as a part of the lawful expense of executing his trust, such reasonable sum paid a company authorized under this act so to do, for becoming his surety on such bond, as may be allowed by the court in which he is required to account, or a judge thereof, not exceeding, however, one per centum per annum of the amount of such bond; and in all actions or proceedings the party entitled to recover costs or disbursements may include therein such reasonable sum as may have been paid such company for executing or guaranteeing any bond, undertaking, recognition or other obligation therein.

May include
as lawful
expenses.

(451) § 5204. SEC. 9. That no company, having signed such a bond, undertaking or obligation, shall be permitted to deny its corporate power to execute such instrument or incur such liability in any proceedings to enforce liability thereunder.

No company
signing bond
shall deny its
corporate
power.

Sec. 10 repeals "all acts and parts of acts inconsistent with this act, in so far as they conflict herewith."

Such corporation shall report to state treasurer annually.

Company shall pay a specific tax on gross amount of all premiums.

(452) § 5205. SEC. 11. Every such corporation shall, as a condition precedent to the renewal of an annual certificate by the commissioner of insurance, make and file in the office of the state treasurer annually in the month of January of each year on oath or affirmation a statement of the number of guarantees, bonds, covenants, or agreements, which it has signed and issued and the gross amount of premiums received or secured thereon during the year then terminated and shall pay into the state treasury a specific tax of two per cent on the gross amount of all premiums received in money or securities in this state during the said year, which said specific tax may be recovered from any corporation neglecting or refusing to pay the same, in any court at the suit of this state, and it shall be the duty of the state treasurer to give his receipt for all moneys paid into the state treasury under the provisions of this act.

PART III.—MISCELLANEOUS PROVISIONS.

CHAPTER X.—STANDARD INSURANCE POLICY.

An Act to provide for the adoption and use of a standard form of fire insurance policy and to repeal act one hundred forty-nine of the public acts of eighteen hundred eighty-one, as amended by act thirty-eight of the public acts of eighteen hundred eighty-nine.

[Act 277, P. A. 1905.]

The People of the State of Michigan enact:

Form of policy.

(453) SECTION 1. No fire insurance company shall issue fire insurance policies on property in this state other than those of the standard form herein set forth, except as follows:

First, A company may print on or in its policies its name, location and date of incorporation, the amount of its paid up capital stock, the names of its officers and agents, the number and date of the policy, and if it is issued through an agent, the words "This policy shall not be valid until countersigned by the duly authorized agent of the company at.....;"

Second, A company may print or use in its policies printed forms of description and specifications of the property insured;

Third, A company insuring against damage by lightning may print in the clause enumerating the perils insured against the additional words "also any damage by lightning, whether fire ensues or not," and, in the clause providing for an apportionment of loss, in case of other insurance, the words "whether by fire, lightning or both;"

Fourth, The blanks in said standard form may be filled in print or writing;

Fifth, A company shall print upon policies issued in compliance with the preceding provisions of this section the words "Michigan Standard Policy;"

Sixth, A company may write upon the margin or across the face of a policy or write, or print in type not smaller than long primer, upon separate slips or riders to be attached thereto, provisions adding to or modifying those contained in the standard form; and all such slips, riders and provisions must be signed by the officers or agent of the company so using them.

This subdivision cannot be construed literally, so as to permit the standard form to be used as a mere frame upon which to affix riders embodying the contract of the parties.—Att'y General v. Com'r of Insurance, 148/566.

Said standard form of policy shall be plainly printed and no portion thereof shall be in type smaller than long primer and shall be as follows:

No..... \$.
(Corporate name of company or association; its principal place or places of business.)

In consideration of the stipulations herein named and ofdollars premium does insure.....for the term of.....from theday of..... 19..., at noon, to theday of.....19..., at noon, against all direct loss or damage by fire, except as hereinafter provided, to an amount not exceeding..... dollars to the following described property while located and contained as described herein, and not elsewhere, to wit:

(Description of property insured.)

This company shall not be liable beyond the actual cash value of the property at the time any loss or damage occurs, and the loss or damage shall be ascertained or estimated according to such actual cash value, with proper deduction for depreciation however caused, and shall in no event exceed what it would then cost the insured to repair or replace the same with material of like kind and quality; said ascertainment or estimate shall be made by the insured and this company, or if they differ, then by appraisers, as hereinafter provided; and the amount of loss or damage having been thus determined, the sum for which this company is liable pursuant to this policy shall be payable sixty days after due notice, ascertainment, estimate, and satisfactory proof of the loss have been received by this company in accordance with the terms of this policy. It shall be optional, however, with this company to take all, or any part, of the articles at such ascertained or appraised value, and also to repair, rebuild, or replace the property lost or damaged with other of like kind and quality within a reasonable time on giving notice, within thirty days after the receipt of the proof herein required, of

its intention so to do; but there can be no abandonment to this company of the property described.

This entire policy shall be void if the insured has concealed or misrepresented, in writing or otherwise, any material fact or circumstance concerning this insurance or the subject thereof; or if the interest of the insured in the property be not truly stated herein; or in case of any fraud or false swearing by the insured touching any matter relating to this insurance or the subject thereof, whether before or after a loss.

This entire policy, unless otherwise provided by agreement indorsed hereon or added hereto, shall be void if the insured now has or shall hereafter make or procure any other contract of insurance, whether valid or not, on property covered in whole or in part by this policy; or if the subject of insurance be a manufacturing establishment and it be operated in whole or in part at night later than ten o'clock, or if it ceased to be operated for more than ten consecutive days; or if the hazard be increased by any means within the control or knowledge of the insured; or if mechanics be employed in building, altering or repairing the within described premises for more than fifteen days at any one time; or if the interest of the insured be other than unconditional and sole ownership; or if the subject of insurance be a building on ground not owned by the insured in fee simple; or if the subject of insurance be personal property and be or become incumbered by chattel mortgage; or if, with the knowledge of the insured, foreclosure proceedings be commenced or notice given of sale of any property covered by this policy by virtue of any mortgage or trust deed; or if any change, other than by the death of an insured, take place in the interest, title or possession of the subject of insurance (except change of occupants without increase of hazard) whether by legal process or judgment or by voluntary act of the insured, or otherwise; or if this policy be assigned before a loss; or if illuminating gas or vapor be generated in the described building (or adjacent thereto) for use therein; or if (any usage or custom of trade or manufacture to the contrary notwithstanding) there be kept, used, or allowed on the above described premises, benzine, benzole, dynamite, ether, fireworks, gasoline, Greek fire, gunpowder exceeding twenty-five pounds in quantity, naphtha, nitro-glycerine or other explosives, phosphorus, or petroleum or any of its products of greater inflammability than kerosene oil of the United States standard (which last may be used for lights and kept for sale according to law but in quantities not exceeding five barrels, provided it be drawn and lamps filled by daylight or at a distance not less than ten feet from artificial light); or if a building herein described, whether intended for occupancy by owner or tenant, be or become vacant or unoccupied and so remain for ten days: Provided, A loss shall occur on the property insured

while such breach of condition continues or such breach of condition is the primary or contributory cause of the loss.

This company shall not be liable for loss caused directly or indirectly by invasion, insurrection, riot, civil war or commotion or military or usurped power, or by order of any civil authority, or by theft, or by neglect of the insured to use all reasonable means to save and preserve the property at and after a fire or when the property is endangered by fire in neighboring premises; or (unless fire ensues, and, in that event, for the damage by fire only) by explosion of any kind, or lightning; but liability for direct damage by lightning may be assumed by specific agreement hereon.

If a building or any part thereof fall, except as the result of fire, all insurance by this policy on such building or its contents shall immediately cease.

This company shall not be liable for loss to accounts, bills, currency, deeds, evidences of debt, money, notes, or securities; nor, unless liability is specifically assumed hereon, for loss to awnings, bullion, casts, curiosities, drawings, dies, implements, jewels, manuscripts, medals, models, patterns, pictures, scientific apparatus, signs, store or office furniture or fixtures, sculpture, tools, or property held on storage or for repairs; nor, beyond the actual value destroyed by fire, for loss occasioned by ordinance or law regulating construction or repair of buildings, or by interruption of business, manufacturing processes, or otherwise; nor for any greater proportion of the value of plate glass, frescoes and decorations than that which this policy shall bear to the whole insurance on the building described.

If an application, survey, plan, or description of property be referred to in this policy it shall be a part of this contract, and a warranty by the insured as to material facts.

In any matter relating to the procuring of this insurance no person, unless duly authorized in writing, shall be deemed the agent of this company.

This policy may by a renewal be continued under the original stipulations, in consideration of premium for the renewed term: Provided, That any increase of hazard must be made known to this company at the time of renewal or this policy shall be void.

This policy shall be canceled at any time at the request of the insured; or by the company by giving five days' notice of such cancellation. If this policy shall be canceled as hereinbefore provided, or become void or cease, the premium having been actually paid, the unearned portion shall be returned on surrender of this policy or last renewal, this company retaining the customary short rate; except that when this policy is canceled by this company by giving notice it shall retain only the pro rata premium.

If, with the consent of this company, an interest under this policy shall exist in favor of a mortgagee or of any person or corporation having an interest in the subject of insurance

other than the interest of the insured as described herein, the conditions hereinbefore contained shall apply in the manner expressed in such provisions and conditions of insurance relating to such interest as shall be written upon, attached or appended hereto.

If property covered by this policy is so endangered by fire as to require removal to a place of safety, and is so removed, that part of this policy in excess of its proportion of any loss and of the value of property remaining in the original location, shall, for the ensuing five days only, cover the property so removed in the new location; if removed to more than one location, such excess of this policy shall cover therein for such five days in the proportion that the value in any one such new location bears to the value in all such new locations; but this company shall not, in any case of removal, whether to one or more locations be liable beyond the proportion that the amount hereby insured shall bear to the total insurance on the whole property at the time of fire, whether the same cover in new location or not.

If fire occur, the insured shall give immediate notice of any loss thereby in writing to this company, protect the property from further damage, forthwith separate the damaged and undamaged personal property, put it in the best possible order, make a complete inventory of the same, stating the quantity and cost of each article and the amount claimed thereon; and within sixty days after the fire, unless such time is extended in writing by this company, shall render a statement to this company, signed and sworn to by said insured, stating the knowledge and belief of the insured as to the time and origin of the fire, the interest of the insured and of all others in the property; the cash value of each item thereof and the amount of loss thereon; all encumbrances thereon; all other insurance, whether valid or not, covering any of said property; and a copy of all the descriptions and schedules in all policies; any changes in the title, use, occupation, location, possession or exposures of said property since the issuing of this policy; by whom and for what purpose any building herein described and the several parts thereof were occupied at the time of fire; and shall furnish, if required, verified plans and specifications of any building, fixtures, or machinery destroyed or damaged; and shall also, if required, furnish a certificate of the magistrate or notary public (not interested in the claim as a creditor or otherwise, nor related to the insured) living nearest the place of fire, stating that he has examined the circumstances and believes the insured has honestly sustained loss to the amount that such magistrate or notary public shall certify.

The insured, as often as required, shall exhibit to any person designated by this company, all that remains of any property herein described, and submit to examinations under oath by any person named by this company, and subscribe the same; and, as often as required, shall produce for ex-

amination all books of account, bills, invoices, and other vouchers, or certified copies thereof, if originals be lost, at such reasonable place as may be designated by this company or its representative, and shall permit extracts and copies thereof to be made.

In the event of disagreement as to the amount of loss the same shall, as above provided, be ascertained by two competent and disinterested appraisers, the insured and this company each selecting one, and the two so chosen shall first select a competent and disinterested umpire; the appraisers together shall then estimate and appraise the loss, stating separately sound value and damage, and, failing to agree, shall submit their differences to the umpire; and the award in writing of any two shall be prima facie evidence of the amount of such loss; the parties thereto shall pay the appraiser respectively selected by them and shall bear equally the expenses of the appraisal and umpire.

This company shall not be held to have waived any provision or condition of this policy or any forfeiture thereof by any requirement, act, or proceeding on its part relating to the appraisal or to any examination herein provided for; and the loss shall not become payable until sixty days after the notice, ascertainment, estimate, and satisfactory proof of the loss herein required have been received by this company, including an award by appraisers when appraisal has been required.

This company shall not be liable under this policy for a greater proportion of any loss on the described property, or for loss by and expense of removal from premises endangered by fire, than the amount hereby insured shall bear to the whole insurance, whether valid or not, or by solvent or insolvent insurers, covering such property, and the extent of the application of the insurance under this policy or of the contribution to be made by this company in case of loss, may be provided for by agreement or condition written hereon or attached or appended hereto. Liability for reinsurance shall be as specifically agreed hereon.

If this company shall claim that the fire was caused by the act or neglect of any person or corporation, private or municipal, this company shall, on payment of the loss, be subrogated to the extent of such payment to all right of recovery by the insured for the loss resulting therefrom, and such right shall be assigned to this company by the insured on receiving such payment.

No suit or action on this policy, for the recovery of any claim, shall be sustainable in any court of law or equity until after full compliance by the insured with all the foregoing requirements, nor unless commenced within twelve months next after the fire.

Wherever in this policy the word "insured" occurs, it shall be held to include the legal representative of the insured, and

wherever the word "loss" occurs, it shall be deemed the equivalent of "loss or damage."

If this policy be made by a mutual or other company having special regulations lawfully applicable to its organization, membership, policies or contracts of insurance, such regulations shall apply to and form a part of this policy, as the same may be written or printed upon, attached, or appended hereto.

This policy is made and accepted subject to the foregoing stipulations and conditions, together with such other provisions, agreements, or conditions as may be endorsed hereon or added hereto, and no officer, agent, or other representative of this company shall have power to waive any provision or condition of this policy except such as by the terms of this policy may be the subject of agreement indorsed hereon or added hereto, and as to such provisions and conditions no officer, agent, or representative shall have such power or be deemed or held to have waived such provisions or conditions unless such waiver, if any, shall be written upon or attached hereto, nor shall any privilege or permission affecting the insurance under this policy exist or be claimed by the insured unless so written or attached.

In witness whereof, This company has executed and attested these presents this.....day of.....19...

The form of policy above enacted is the same as the one adopted by the commission provided for by Act 149 of 1881, and was in use, until May 22, 1905, when the supreme court declared that act invalid, as an unconstitutional delegation of legislative power.—*Kling v. Concordia Fire Ins. Co.*, 140/259. Prior to that case, the following decisions had been made on the standard policy act:

The policy of our laws relating to the contract of insurance is to place the parties thereto upon an equal footing with respect to the assertion and determination of rights under it, and to secure fairness and equity between the insurers and the assured.—*McGraw v. Germania Fire Ins. Co.* (Champlin, J.), 54/158. Time is not made the essence of the provision of the standard policy relating to proofs.—*Steele v. Insurance Co.*, 93/83. The object of this statute was to provide a policy fair to the insured and the insurer and to avoid litigation.—*Armstrong v. Insurance Co.*, 95/139. The provision of the standard policy requiring an appraisal is a condition precedent to suit only in case a demand therefor has been made.—*Nat'l Home B. & L. Ass'n v. Dwelling House Ins. Co.*, 106/236. This statute comes clearly within that class of cases which hold the word "void" to mean "voidable." The insertion of a clause in the policy, not provided for by this act, renders the policy voidable, not void.—*Armstrong v. Insurance Co.*, 95/139-40. The terms of the standard policy of fire insurance are to be construed as employed in the sense in which they were used and interpreted by the courts before that form of policy was adopted.—*John Davis & Co. v. Insurance Co.*, 115/382. Arbitration under terms of standard policy.—*Wicking v. Cit. Mut. F. Ins. Co.*, 118/640. There is nothing in the standard fire insurance policy requiring the insured to obtain from an adjuster a certificate that he has suffered loss by fire and the amount thereof.—*Burns v. Mut. Fire Ins. Co.*, 130/561. Proofs of loss, under the standard policy may be made by an agent, where the insured is critically ill and unable to attend to any business.—*Burns v. Mut. Fire Ins. Co.*, 130/561. A standard insurance policy, issued by a mutual company, held to be an ordinary contract of insurance, which did not make the holders members of the company and liable for assessments.—*Osins v. O'Dwyer*, 127/244. Co-insurance clause.—*Att'y General v. Com'r of Insurance*, 148/566. See *Mutual Benefit Life Ins. Co. v. Com'r of Insurance*, 151/615.

How designated.

(454) SEC. 2. The form of policy, fixed as above, shall be known and designated as the Michigan standard policy.

(455) SEC. 3. Any person, corporation, or company that shall, either as principal or agent, wilfully issue or cause

to be issued, any policy or contract of fire insurance on property situated within this state, contrary to the provisions of this act, shall forfeit the sum of two hundred fifty dollars for each policy or contract so issued, to be recovered in an action of debt or assumpsit brought in the name of the people of the state of Michigan in any court of competent jurisdiction. It shall be the duty of the attorney general to sue for and collect any sum so forfeited, or cause the same to be done by the prosecuting attorney of the proper county. The prosecuting attorney of any county, whenever requested by the attorney general, shall, under the direction of the attorney general, commence and prosecute any such suit within his county. It shall be the duty of each prosecuting attorney to promptly notify the attorney general and the commissioner of insurance of any forfeiture incurred under the provisions of this act in his county. All moneys collected by suit, as aforesaid, shall, within twenty days thereafter, be paid into the treasury of the county where the suit was brought, and the county treasurer shall give duplicate receipts therefor, and transmit one of such duplicates to the commissioner of insurance. All forfeitures paid before suit shall be paid into the state treasury.

Attorney general to institute suit, etc.

Prosecuting attorney to notify attorney general and commissioner.

Moneys, where paid.

(456) SEC. 4. Whenever the commissioner of insurance shall have satisfactory evidence that any foreign insurance company or corporation, not organized under the laws of this state, has incurred any penalty or forfeiture under the provisions of this act, he shall demand of such company or corporation the amount so forfeited and unless the amount so forfeited is paid into the state treasury, and the proper voucher therefor delivered to the commissioner of insurance within thirty days after such demand, he shall revoke the authority of such corporation or company to do business in this state, and such company or corporation shall not thereafter be authorized to do business in this state until all sums so forfeited shall have been fully paid. Such demand may be made of any agent of such company or corporation, or by letter addressed to it, or its president, or secretary, at the place where its home office or general agency for this state or for the United States is located.

Foreign companies, revocation of license, etc.

(457) SEC. 5. The provisions of this act shall not apply to policies issued by mutual fire insurance companies organized under the provisions of act number eighty-two of the session laws of eighteen hundred seventy-three, or the acts amendatory thereof, or under the provisions of act number two hundred sixty-two of the session laws of eighteen hundred ninety-five, or the acts amendatory thereof.

Provisions not applicable to certain policies.

Section 6 repeals Act 149 of 1881, as amended by Act 38 of 1889 (C. L. sections 5170-5179).

An Act to provide for co-insurance rider clauses to be attached to the Michigan standard policy of fire insurance.

[Act 307, P. A. 1907.]

The People of the State of Michigan enact:

Co-insurance
clause, when
may be
issued.

(458) SECTION 1. Whenever any person, firm or corporation shall make written application to any insurance company authorized to do business within the state of Michigan, to attach to any existing policy or to one to be issued by such company, the latter shall have the right to issue and attach such co-insurance clause, but not otherwise.

Att'y General v. Com'r of Insurance, 148 / 566.

Application,
form of.

(459) SEC. 2. Such application shall be made substantially in the following form:

Clause, form
of.

.....hereby request that there be attached to policy number of the insurance company, the following co-insurance clause, to-wit:

"It is hereby agreed that the assured shall maintain insurance during the life of this policy upon the property hereby insured, to the extent of at least per cent. of the actual cash value thereof, and that failing to do so, the assured shall be a co-insurer to the extent of the difference between the amount insured and the said per cent. of the cash value, and to that extent shall bear his, her or their proportion of any loss. It is also agreed that if this policy be divided into two or more items, the foregoing conditions shall apply to each item separately;"

To the provisions of which agree in consideration of a reduced premium rate.

It is understood by the undersigned that the effect of the above mentioned co-insurance clause, when attached, will be to reduce the liability of the insurance company, unless the property described in the policy covered by said insurance is insured for per cent. of its actual cash value, except where the loss exceeds the amount of the insurance required under this clause.

To be in
form stated
and signed.

(460) SEC. 3. All co-insurance rider clauses attached to any insurance policy in pursuance of the application mentioned in the preceding paragraph shall be in the form therein stated and duly signed by the company or its authorized agent.

CHAPTER XI.—MISCELLANEOUS REGULATIONS.

An Act to provide for the making of deposits and for the payment of taxes and fees to the commissioner of insurance by insurance corporations and others, and for the disbursement thereof.

[Act 199, P. A. 1907.]

The People of the State of Michigan enact:

(461) SECTION 1. Whenever, by the existing or future laws of any state, an insurance corporation of this state or agent thereof is required to make any deposit of securities in such other state for the protection of policy holders or otherwise, or to make payment for taxes, fines, penalties, certificates of authority, valuation of policies, license fees, or otherwise, greater than is required by the laws of this state for similar corporations of such state, the insurance companies of such states shall be and they are hereby required as a condition precedent to their transacting business in this state, to make a like deposit for like purposes with the state treasurer of this state, and to pay to the commissioner of insurance for taxes, fines, penalties, certificates of authority, valuation of policies, license fees and otherwise a rate equal to such charges and payments imposed by the laws of such other state upon similar corporations of this state and the agents thereof. In the case of fire department or salvage corps taxes or other local taxes the rate shall be computed by the commissioner of insurance by dividing the total of such payments made by insurance corporations of this state in such state by the gross premiums received by such corporations in such state less return premiums. Any corporation refusing for thirty days to make payment of such fees or taxes as above required shall have its certificate of authority revoked by the commissioner of insurance: Provided, That corporations organized under the laws of any state or country other than these United States shall, as to the provisions of this act, be considered corporations of that state wherein their general deposit for the benefit of their policy holders is made.

Deposits, fees, taxes, etc., by corporations of other states.

Rate of tax, how computed.

Revocation of certificate.

Proviso, as to foreign corporations.

(462) SEC. 2. For making copies of any papers in his office, the commissioner of insurance shall charge at the rate of twenty cents per folio per hundred, and for attaching his certificate thereto twenty-five cents.

Charge for making copies.

(463) SEC. 3. The fees collected under sections one and two of this act shall be turned over by the commissioner of insurance to the state treasurer and placed in a fund from which shall be paid the necessary traveling expenses of the employes of the insurance department as allowed by the state board of auditors, and the salaries of the deputy commissioner of insurance, actuary and one examiner. Said salaries shall be fixed by the commissioner of insurance, for the

Disposition of fees.

Proviso, as to
balance on
hand.

deputy commissioner of insurance in a sum not greater than that paid to the deputy commissioner of banking, and to the actuary and examiner not greater than that paid to the state bank examiners: Provided, That any balance remaining in said fund at the close of business December thirty-first of each year shall be transferred by the state treasurer to the general fund of this state.

Section 4 repeals Act 79 of 1899 and other inconsistent acts.

An Act to regulate the filing of annual statements by insurance companies doing business in this state, and the issuance of certificates of authority thereto by the commissioner of insurance.

[Act 133, P. A. 1909.]

The People of the State of Michigan enact:

Annual
statement,
when filed.

(464) SECTION 1. The annual statement required by law to be filed in the office of the commissioner of insurance by any insurance company, including fraternal beneficiary societies, doing business under the provisions of any insurance law of this state, shall hereafter be filed on or before the fifteenth day of February of the year following that covered by the statement.

Certificates
of authority.

(465) SEC. 2. The commissioner of insurance shall, on or before March first of each year, issue certificates of authority to such companies as have filed their annual statements as required by section one of this act and have otherwise complied with the statutes under which they desire to be authorized to do business, which certificates shall bear date as of March first and shall expire on the last day of February following unless sooner revoked: Provided, That certificates of authority issued to corporations organized or doing business under the provisions of act number one hundred eighty-seven of the public acts of eighteen hundred eighty-seven and act number one hundred nineteen of the public acts of eighteen hundred ninety-three, and amendments thereto, shall be issued on or before April first following the filing of the annual statement, shall bear date as of April first and shall expire by limitation on the last day of March following their issuance unless sooner revoked.

Proviso,
corporations
organized
under
specific acts.

Certificates,
certain,
expiring by
limitation.

(466) SEC. 3. All certificates of authority issued by the commissioner of insurance to insurance companies doing business in this state and expiring by limitation before March one, nineteen hundred ten, are hereby extended to that date and all certificates of authority issued by the commissioner of insurance prior to the taking effect of this act and expiring by limitation after March one, nineteen hundred ten, shall

be deemed to expire February twenty-eighth, nineteen hundred ten: Provided, That the certificates of authority of corporations doing business under the provisions of act number one hundred eighty-seven of the public acts of eighteen hundred eight-seven, and act number one hundred nineteen of the public acts of eighteen hundred ninety-three, and amendments thereto, issued prior to the taking effect of this act, shall expire by limitation on March thirty-one, nineteen hundred ten.

Sec. 4 repeals contravening acts.

An Act to require the procuring of certificates of authority in this state by all agents of insurance companies doing business within this state.

[Act 84, P. A. 1901.]

The People of the State of Michigan enact:

(467) SECTION 1. After the first day of February, one thousand nine hundred one, it shall not be lawful for any person to act within this state, as agent or otherwise, in procuring or receiving applications, or in any manner, directly or indirectly, to aid in transacting any business for, or in behalf of, any insurance company, corporation or association, authorized to transact business within this state, until he shall have procured from the commissioner of insurance a certificate of authority as hereinafter provided; nor shall it be lawful for any such company, corporation or association to appoint or employ any agent or directly or indirectly to authorize any person to transact any insurance business, or in any manner to receive the benefit of any business done or services rendered by any such agent or person, within this state, in any other manner than is hereinafter provided.

Insurance agents to secure certificate of authority.

Unlawful for company to employ unauthorized persons.

(468) SEC. 2. Any insurance company, corporation or association authorized to do business within this state, appointing or employing any agent or person to transact its business within this state, shall at once notify the commissioner of insurance of this state of such appointment or employment, giving the name and business address of such agent or person, and setting forth the kind of business that he is authorized to transact; whereupon the commissioner of insurance shall transmit by mail or deliver personally to such agent or person a certificate of authority, which shall specifically set forth the name of the person so appointed or employed, the name of the company, corporation or association for which he is to act in transacting insurance business, and the particular kind of insurance said agent is authorized to

Notice to be given to commissioner of insurance.

Commissioner to deliver certificate.

Time in force.	solicit. Said agent's certificate of authority shall continue in force until the expiration of the annual certificate of authority of said insurance company, corporation or association
Proviso.	unless the same is revoked for cause: Provided always, That none of the provisions of this act shall be construed as applying to mutual fire insurance companies organized under the laws of this state, or fraternal beneficiary societies organized or authorized to do business in this state.
Penalty for violation of act.	(469) Sec. 3. Any person violating the provisions of this act shall, upon conviction thereof, be punished by a fine of not less than ten, nor more than one hundred dollars, or by imprisonment in the county jail for not less than five, nor more than ninety days, or both such fine and imprisonment in the discretion of the court; and upon satisfactory evidence of the violation of the provisions of this act by any insurance company, corporation or association, the commissioner of insurance shall forthwith revoke the certificate of authority of said company and shall not renew said certificate, until said company shall have paid to said commissioner, for the use of the state, a penalty of ten dollars for each and every case of violation of the provisions of this act, of which said commissioner shall have good and satisfactory evidence.

Section 4 repeals all inconsistent acts on the same subject.

An Act to provide for the furnishing to policy holders copies of the application for insurance in life, co-operative, mutual benefit and fraternal beneficiary companies or associations.

[Act 87, P. A. 1899.]

The People of the State of Michigan enact:

Application to be attached to policy.	(470) SECTION 1. That all life insurance companies, co-operative insurance companies, mutual benefit and fraternal beneficiary associations doing business in the state of Michigan, shall, when requested by the insured, attach to every policy when issued in this state, an accurate copy of the application for such insurance, including the medical examination, family history of the applicant and all representations of any kind made by the applicant upon which the contract for insurance is based. If such copy of application shall not be requested by the insured at the time policy is issued, it shall be furnished by the corporation insuring at any time thereafter upon request of the insured, in his life time or of his representatives or beneficiaries after his death.
Duty of insurance commissioner.	(471) SEC. 2. If any life insurance company, co-operative insurance company, mutual benefit or fraternal beneficiary association shall fail to comply with the provisions

of section one of this act, it shall be the duty of the commissioner of insurance of this state, upon a hearing before him after proper notice given to such company, to revoke the license or suspend the right of such company to do business within this state for such time, not less than three months nor exceeding one year, as to the commissioner shall seem just and proper.

An Act relative to the insurance on lives for the benefit of married women.

[Act 233, S. L. 1848.]

Be it enacted by the Senate and House of Representatives of the State of Michigan.

(472) § 8695. SECTION 1. That it shall be lawful for any married woman, by herself, and in her name, or in the name of any third person, with his assent, as her trustee, to cause to be insured for her sole use, the life of her husband or the life of any other person, in any life insurance company of any nature whatever, located in either of the states of the United States of America or in Great Britain, for any definite period, or for the term of his natural life; and in case of her surviving her husband, or such other person insured in her behalf, the sum or net amount of the policy of insurance due and payable by the terms of the insurance, shall be payable to her, to and for her own use, free from the claims of the representatives of her husband, or of such other person insured, or of any of his creditors, but such exemption shall not apply where the amount of premium annually paid shall exceed the sum of three hundred dollars.

Married women may insure life of husband, etc.

(473) § 8696. SEC. 2. In case of the death of the wife before the decease of her husband, or of such other person insured, the amount of the insurance may be made payable after her death to her children, for their use, and to their guardian, if under age, or the amount of the policy may be disposed of by such married woman by a last will and testament.

When insurance may be payable to her children.

Insurance of County Buildings.

[R. S. '46, ch. 14.]

(474) § 2543. SEC. 44. When directed by the board of supervisors, the county treasurer shall cause to be insured any or all the public buildings belonging to the county, as

Insurance of buildings of county.

said board shall direct, and the insurance thereon shall be taken in the name of the treasurer, and his successors in office.

Treasurer to
collect moneys
in case of
damage.

(475) § 2544. SEC. 45. In case of the destruction of, or damage done to the buildings so insured, the treasurer shall have authority, and it shall be his duty, to demand and receive the moneys which shall be due on account of such insurance, and in case of neglect or refusal to pay the same, he shall sue for and collect such moneys in his name of office whenever directed by the board of supervisors, and pay the same into the county treasury, to be used in repairing or rebuilding such public buildings.

Computation of Taxable Property.

[Act 206, P. A. 1893.]

Corporate
property, how
assessed.

Proviso.

Further
proviso.

Property of
certain cor-
porations
exempt.

Property of
insurance
companies,
how com-
puted.

(476) § 3834. SEC. 11. All corporate property, except where some other provision is made by law, shall be assessed to the corporation as to a natural person, in the name of the corporation. The place where its office is located in its articles of incorporation shall be deemed its residence: Provided, Its business is actually transacted at such office; but if it shall establish its principal office in any other place than the place named in its articles of incorporation, then the place where it transacts its principal business shall be deemed its residence for all the purposes of this act. If there be no principal office in this state, then at the place in this state, where such corporation or agent transacts business: Provided further, That all the personal property of all corporations heretofore or hereafter organized under the laws of this state for the purpose of engaging in maritime commerce or navigation shall be assessed only in the city, village or township which is stated in their original articles of association or in any amendment thereof heretofore or hereafter made to be the location of their general office for business. The property of corporations paying specific taxes shall be exempt as to the property covered by such taxation, except when otherwise provided by law. All other property of such corporation shall be taxed under this act. In computing the taxable property of insurance companies organized under the laws of this state, the value of the real property on which a company pays taxes shall be deducted from its net assets above liabilities, as determined and shown by the last report of the commissioner of insurance, including in such liabilities the legal reserve required by the laws of this state, or the regulations of the insurance department, and the remainder

shall be the personal property for which the company shall be assessed.

Am. 1903, Act 235.

Taxation of insurance companies.—Insurance Co. v. Assessors, 91/517; Id. 95/486.

This section indicates an intention to tax the property of the company, and not a design to impose a franchise tax.—F. & M. Ins. Co. v. Hartz, 132/518. Prior to the amendment of 1903, the reinsurance reserve fund of an insurance company was not considered a debt in the ordinary sense of the term and did not entitle the company to the exemption of an equal amount of credits from taxation.—Id. And it was properly included among liabilities in determining the net assets of an insurance company for the purpose of taxation under this section.—Mich. Mut. Life Ins. Co. v. Detroit Com. Council, 133/408. Place of residence, see Detroit v. Lothrop Estate Co., 136/265; Transportation Co. v. Detroit Assessors, 139/1. Situs of property.—Forsmouth Twp. v. Cranage Steamship Co., 148/230.

Taxation of Inheritances.

[Extract from Act 195, P. A. 1903.]

(477) SEC. 9. If a foreign executor, administrator or trustee shall assign or convey any stock or obligation in this state standing in the name of a decedent, or in trust for a decedent, liable to any such tax, the tax shall be paid to the treasurer of the proper county on the transfer thereof; and any corporation, person or persons having control over any such assets, shall not deliver or transfer the same to any person or corporation other than an executor, administrator, trustee or guardian duly qualified under the laws of this state, until the tax to which the same is liable has been paid as provided in this act. No safe deposit company, trust company, bank or other institution, person or persons holding securities or assets of a decedent shall deliver or transfer the same to the executors, administrators, or legal representatives of said decedent or their assignees unless notice of the time and place of such intended delivery or transfer be served upon the county treasurer by said company, bank, institution, person or persons, at least five days prior to the said delivery or transfer. And it shall be lawful for the said county treasurer and is hereby made his duty personally or by representative, to examine said securities or assets at the time of or prior to such delivery or transfer. Failure to serve such notice or to allow such examination on the delivery or transfer herein prohibited, shall render such safe deposit company, bank, or other institution, person or persons liable to the payment of the tax due or to become due upon said securities or assets in pursuance of the provisions of this act.

Transfers by foreign executors, how taxed.

Duty of banks, etc.

Liability of.

CHAPTER XII.—LEGAL PROCEEDINGS.

An Act to authorize suits to be brought against insurance companies organized under the laws of this state, in the circuit court of any county in this state, in which the plaintiff shall reside, and such company issue policies or take risks.

[Act 178, P. A. 1881.]

The People of the State of Michigan enact:

Where suits
against, may
be brought.

(478) § 10444. SECTION 1. Suits may be commenced, tried and disposed of against insurance companies, or co-operative and mutual benefit associations, having for their object insurance against any risk, organized under the laws of this state, by any member of said company or association, or other person, in the circuit court of any county in this state in which the plaintiff resides, and such company issues policies, certificates of membership, or takes risks, in the same manner and with like effect as if the suits were brought in the county where such company or association has its principal office.

Am. 1901, Act 51.

For the purpose of commencing suit a mutual benefit association must be regarded as an insurance company, within the laws of the state.—*Miner v. Mich. Mut. Ben. Ass'n*, 63/341. Justices of the peace have jurisdiction against foreign insurance companies where the cause of action accrues within this state.—*McLean v. Prudential Ins. Co.*, 130/591. Does not apply to fraternal beneficiary societies organized under Chapter 212, C. L., 1897, as amended.—*Monger v. New Era Association*, 145/683.

How commenced.

(479) § 10445. SEC. 2. Such suits may be commenced by declaration or writ, which may be served upon any agent or officer of such company or association, residing or found within the county where the suit is brought, or in any county in this state, by the sheriff of any county where such agent or officer may be found, or by the sheriff of the county where the principal office of such company or association is located.

Am. Id.

Costs, how
awarded.

(480) SEC. 3. The trial judge may, where there is a recovery by plaintiff in any suit commenced by virtue of this act, award costs to plaintiff, notwithstanding the fact that the amount recovered is less than one hundred dollars.

Added Id.

An Act to provide for bringing suits against co-operative and mutual benefit insurance societies and associations organized under the laws of other states or territories and doing business in this state.

[Act 174, P. A. 1885.]

The People of the State of Michigan enact:

(481) § 10429. SECTION 1. Every mutual benefit or co-operative society or association organized or incorporated under the laws of any other state, territory or country for the purpose of paying a sum of money to some beneficiary upon the death or physical disability of a member thereof, shall, if it have any member or members residing in this state, make and file with the commissioner of insurance a written stipulation, duly authenticated by such society or association, stipulating and agreeing that any legal process affecting such society or association served on the insurance [commissioner] commissioners or his deputy shall have the same effect as if personally served on the society or association.

Process may be served on commissioner of insurance.

Written stipulation to be filed with commissioner.

(482) § 10430. SEC. 2. Suit may be begun against such society or association in any county in this state in which the plaintiff resides or in which such society or association has members holding certificates of membership, and service of process as provided in the preceding section shall be a sufficient personal service on the society or association.

Suits may be begun in any county.

(483) § 10431. SEC. 3. In case any such society or association shall fail to file such stipulation as aforesaid with the commissioner of insurance, the service of any such process as aforesaid may be made upon the presiding officer, or any vice president, secretary, treasurer, or trustee, or director of any such society or association, or upon the presiding officer of any branch organization or subordinate body thereof within this state, with like force and effect as if made personally upon such society or association; and any person who shall collect, receive or remit any money on assessments or otherwise for or to any such society or association which shall not have within this state any one of the officers or persons aforesaid on whom service may be made as aforesaid, and which shall not have filed such aforesaid stipulation within thirty days after this act shall take effect, shall be deemed guilty of a misdemeanor and upon conviction thereof shall, for each offense, be punished by a fine not exceeding one hundred dollars, or by imprisonment in the county jail not to exceed three months, or by both such fine and imprisonment, in the discretion of the court.

Failure to file agreement.

When guilty of misdemeanor.

Penalty for.

(484) § 10432. SEC. 4. This act shall apply to all [manner] manners of foreign co-operative and mutual benefit societies and associations having members residing in this state.

To apply to.

An Act relative to the service of process upon insurance companies not incorporated under the laws of this state.

[Act 155, S. L. 1873.]

The People of the State of Michigan enact:

Company to stipulate as to service of process.

(485) § 10015. SECTION 1. That no life, fire, inland, or marine insurance company, not incorporated under the laws of this state, shall insure property or do business in this state, until it has filed with the commissioner of insurance a written stipulation, duly authenticated by the company, stipulating and agreeing that any legal process affecting such company, served on the insurance commissioner or his deputy, shall have the same effect as if personally served on the company or its authorized attorney in this state.

Commissioner to transmit copies of this act to companies, etc.

(486) § 10016. SEC. 2. The commissioner of insurance shall, within three months from the passage of this act, transmit a copy thereof, with proper blanks for such stipulation, to every company authorized to do business in this state, and shall receive and file the stipulations herein provided for, and the same shall be safely kept in his office.

Stipulation not to be revoked while liability exists.

(487) § 10017. SEC. 3. So long as any liability of such stipulating company to any resident of this state shall continue, such stipulation shall not be revoked or modified, except that another shall be filed according to law.

Service according to stipulation sufficient.

(488) § 10018. SEC. 4. Service of process, according to a stipulation provided in this act, shall be sufficient personal service on the company.

Evidence of service.

(489) § 10019. SEC. 5. A copy of such stipulation, certified by the commissioner of insurance or his deputy, and a certificate that process has been duly served on him or his deputy, shall be a sufficient evidence thereof.

How service shall be made.

(490) § 10020. SEC. 6. When process against or affecting any company is served on the commissioner of insurance, or his deputy, the same shall be by duplicate copies, one of which shall be filed in the office of said commissioner and the other by him immediately mailed, postage prepaid, to the home office of the company, or such branch or general agency of the company, or to the address of the authorized resident attorney in this state, as the company may designate in such stipulation.

There is no exception in this section and it applies to all cases of suits against foreign insurance companies.—Hartford Fire Ins. Co. v. Owen, 30 / 444.

Word "process" defined.

(491) § 10021. SEC. 7. The word "process" in this act shall include any writ, declaration, summons, order, or subpoena whereby any action, suit, or proceeding at law, or in chancery, shall be commenced against any such insurance company, whether such suit or proceeding is connected with the insurance business of such company in this state or not,

and whether such suit or proceeding is founded upon any claim or demand connected with such business of insurance, or upon matters growing out of such business, or whether it is founded or based upon any other claim or demand, whatever may be the nature of such claim or demand.

This provision as to the meaning of the word "process" clearly includes a summons in garnishment.—Insurance Co. v. Judge, 105/566.

Levy of Attachment or Execution upon Stock.

[R. S. '46, ch. 106.]

(492) § 10335. SEC. 38. Any share or interest of any stockholder in any bank, insurance company or any joint stock corporation or any other corporation, whether the same be organized for the purpose of mercantile pursuits, or for social, intellectual or other pleasurable objects, that is or may be incorporated under the authority of or authorized to be created by any law of this state, may be attached or taken in execution and sold in the following manner.

Stock may be attached and sold.

Am. 1903, Act 219.

Certificates of stock may be reached by garnishment under this section.—Old Sec. Nat. Bank v. Williams, 112/564. The provisions of this statute must be strictly complied with.—Felge v. Burt, 118/243.

(493) § 10336. SEC. 39. The officer shall leave a copy of the attachment or execution certified by him with the clerk, treasurer, cashier, or agent of the corporation if there be any such officer, and if not then with any officer or person who has, at the time, the custody of the books and papers of the corporation within this state, and the share or interest shall be considered seized on such attachment or execution when such copy is left.

Copy of execution to be left with cashier, etc.

(494) § 10337. SEC. 40. The officer of the company who is appointed to keep a record or account of the shares or interest of the stockholders therein or in whose office there is required to be kept any list or statement showing the stockholders of such corporation and the number of shares held by each, or their interest therein, shall upon exhibiting to him the attachment or execution be bound to give the officer a certificate of the number of shares or amount of the interest held by the defendant named in such attachment or the judgment debtor.

Officer of company bound to give certificate.

(495) § 10338. SEC. 41. A copy of the execution and the return thereon, certified by the officer executing the same, shall, within fourteen days after the sale, be left with the officer of the company whose duty it may be to keep a record of the transfer of shares; and the purchaser shall thereupon

Copy of execution to be left, etc.

be entitled to a certificate or certificates of the shares bought by him, upon paying the fees therefor, and for recording the transfer.

When purchaser entitled to dividends.

(496) § 10339. SEC. 42. If the shares or interest of the judgment debtor shall have been attached in the suit in which the execution issued, the purchaser shall be entitled to all the dividends which shall have accrued after the levying of the attachment.

How executions levied upon corporate property.

(497) § 10340. SEC. 43. Executions against corporations, when levied upon any corporate property, shall be levied in the same manner as other executions are levied, except in cases otherwise provided by law.

Jurisdiction of Justices of the Peace in Garnishment of Corporations.

[Act 137, L. M. 1849.]

Corporations liable as garnishees.

(498) § 1014. SEC. 25. All corporations of whatsoever nature, whether foreign, domestic, municipal or otherwise, except counties, may be proceeded against as garnishees in the same manner and with like effect as individuals under the provisions of this act, and the rules of law regulating

Summons.

proceedings against corporations, and the summons against the garnishee in such case may be served on the president, cashier, secretary, treasurer, comptroller or other principal officer of such corporation, and it shall be the duty of such officer so served, or the proper officer of such corporation having knowledge of the facts, to appear before the justice at the

Answer.

return day of the summons and answer thereto, or to answer at his option in writing, verified by his oath, before some person authorized to administer oaths, and transmit the same, by mail or otherwise, to the justice issuing said summons on or before the return day thereof, which shall be deemed a sufficient compliance with such summons; and unless he shall so appear or so answer, such corporation shall be held to be indebted to the defendant in the original suit to the amount of any judgment that may be made against such defendant in said original suit, unless within three days after the return day of such summons such corporation shall, by such officer show a sufficient reason to the satisfaction of the justice for non-appearing to answer such summons, and the justice shall thereupon, on the third secular day, render judgment against such corporation, as against other garnishees for the amount of such debt, and with like effect; but on such cause shown, such officer may be examined as other garnishees, and with like effect, as against the corporation he represents. Such corporation or the plaintiff in such suit may

Failure to answer, subjects corporation to payment of judgment.

Judgment against corporation.

Appeal.

appeal from such judgment rendered under this section to the circuit court of the proper county, in the same manner as appeals may be taken from any other judgment of a justice of the peace, where the liability of such corporation may be fully inquired into: **Provided**, That when a municipal corporation is proceeded against, as provided for in this act, judgment shall have been obtained in a court of competent jurisdiction by the plaintiff against the defendant before garnishment proceedings shall be valid against such municipal corporation: **Provided further**, That it shall be necessary for the plaintiff in the action to cause to be served a notice in writing upon the clerk, treasurer, or comptroller of such municipal corporation, signed by the justice of the peace before whom an action of garnishment has been commenced, stating that judgment has been rendered and is on file in favor of the plaintiff and against the defendant; that the plaintiff has filed an affidavit to that effect, and that he believes or has good reason to believe that such municipal corporation is indebted to the defendant, and has money, property or effects in its hands belonging to such defendant, and that such municipal corporation shall hold such money, property or effects until the final disposition of the action or garnishment then pending before such justice, unless sooner released by the justice. Such corporation receiving the notice herein provided shall hold any money, property or effects in its hands belonging to the defendant named in such notice until the final disposition of the action against said municipal corporation, unless sooner released by order of the justice. Such money may be released by the defendant giving a bond in double the amount claimed to be due by the plaintiff in the action then pending, conditioned that if the plaintiff recover, the bondsmen will pay into court for the use of said plaintiff the amount of such judgment and costs, such bond to be approved by the justice. The plaintiff in such original action against the defendant shall cause to be filed with the treasurer of such municipal corporation, at the time of service of the notice aforesaid, a certified copy of the judgment, whereupon such municipal corporation shall be liable to the judgment creditor for the amount of such judgment. The filing of such judgment shall constitute a lien upon any money, property or effects that such municipal corporation may have in its hands belonging to the defendant in such action, and such municipal corporation shall be required to make disclosure the same as in garnishee proceedings, and such further action shall be had under the law now provided for in garnishee proceedings, after the service of a summons, and any reference hereafter made relative to garnishees shall include and be construed to mean municipal corporations, after a filing of a certified copy of the judgment as hereinbefore provided: **Provided further**, That when such corporation shall wish to appeal, in cases where they have not answered as garnishees, they shall, in

Proviso.

**Further
proviso.**

**Corporations
to hold
money, etc.,
of defendant.**

**How money
may be
released.**

**Copy of
judgment
filed with
treasurer.**

**Filing of
judgment to
constitute
lien.**

**Proviso as to
appeal.**

Further
proviso.

addition to the other requirements of law, file with the justice a full and complete answer, in writing, as such garnishees, verified by the oath of one of the officers having knowledge of the facts which said officer shall also answer under oath all questions put to him by such justice relating to the matter of such suit, and whereupon the said justice shall, within the time required for making such return of such appeal, at the option of the plaintiff, either make such return or set aside the judgment rendered against such corporation, by entry thereon upon his docket, and across the face of such judgment, in which event said corporation, if they have not already paid all costs in such suit, shall be liable for the same: Provided further, That in the upper peninsula garnishee process under this act may be served on the clerk of all companies organized under the general mining laws of the state of Michigan, as well as on other officers thereof mentioned in this section.

Am. 1899, Act 257; 1903, Act 73.

A foreign insurance company may be garnisheed in justice's court, under this section.—*Grinnell v. Fire Ins. Co.*, 127/19. An affidavit and writ which does not state whether the corporation is foreign or domestic, is not fatally defective.—*Id.*

CHAPTER XIII.—CRIMINAL ENACTMENTS.

An Act to provide for the prevention of false and fraudulent advertisements, circulars, notices and statements of insurance companies and false representations concerning the same, and against the misappropriation of funds, and to provide penalties therefor.

[Act 256, P. A. 1899.]

The People of the State of Michigan enact:

Fraudulent
circulars, et c.,
unlawful.

(499) SECTION 1. If any life, accident, sick benefit, fire, casualty or other insurance corporation organized or operating within this state shall, by means of any advertisement, circular, notice or statement printed or written, published, posted or circulated through and by the agency of any officer, agent or other person, or by any other means, falsely represent or hold out to the public that the capital stock of such company is greater than its actual amount, or that the accumulation of such company is greater than its actual cash or market value, or shall represent the financial condition to be other than it actually is or was at the time of making such statement, every director or officer of such company guilty of any participation therein shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding one hundred dollars, or by imprisonment in the county jail not exceeding three months, or

Penalty.

by both such fine and imprisonment, in the discretion of the court; and if any such company, after such false advertisement, circular, notice or statement shall have been published, posted or circulated, shall receive any money, note or obligation for the payment of money, from any person, as a consideration for any insurance made or policy issued or to be issued by such company, such money, note or obligation shall be deemed and taken to have been received without consideration; and the directors of such company, and any officer or agent receiving the same, shall be jointly and severally liable in an action of assumpsit for the repayment thereof, and shall also, in like manner, be liable to the person insured for the amount of the insurance. And any such false advertisement, circular, notice or statement shall be sufficient ground for proceedings on the part of the attorney general, in the supreme court, for a forfeiture of the chartered privileges of such company, or for an order prohibiting the further trans-
When moneys deemed received without consideration.
Forfeiture of charter.
Proviso.
 action of business by it within this state: Provided, That no such forfeiture shall be declared on that ground solely, if it shall appear either that the publication was by mistake, or that the directors, officers or agents making the same have been dismissed from the service of such company, and that the company has published such true statement of its affairs as may have been directed by the attorney general, or such court.

(500) SEC. 2. It shall be unlawful for any person to make a false statement in any report required by law to be made by any life insurance corporation or fraternal beneficiary association organized or authorized to do business in this state, or to so make any such statement or report as to fraudulently conceal the real facts, and if intentionally so made shall, if the company be organized under the laws of this state, be cause of forfeiture of the corporate franchise, and if the company be organized under the laws of any other state or government, be cause for revocation of such company's license to do business in this state, by the commissioner of insurance, after hearing granted. Any officer or agent guilty of any such false or fraudulent statement, or of any intentional violation of the provisions of this act, or who shall aid or abet others in any such violation, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine not exceeding one thousand dollars, or by imprisonment not exceeding three months, or by both such fine and imprisonment, in the discretion of the court. And it shall be the duty of the commissioner of insurance to notify the prosecuting attorney of the proper county of any offense under this act which may come to his knowledge, and it shall thereupon become the duty of the prosecuting attorney to cause proceedings to be taken for the punishment thereof.
Unlawful to make false report.
Penalty.
Duty of insurance commissioner.

(501) SEC. 3. It shall be unlawful for any officer or agent of a fraternal beneficiary or co-operative mutual life
Unlawful to appropriate or use reserve funds.

insurance company doing business in this state to appropriate or use any portion of the reserve or mortality funds of such association for any other purpose than such as the articles of association, by-laws and contracts with members prescribe. Any officer of a corporation mentioned in this section who shall violate any of the provisions thereof shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not exceeding one thousand dollars, or by imprisonment not exceeding six months, or both such fine and imprisonment, in the discretion of the court.

Penalty.

Section 4 repeals "all acts and parts of acts inconsistent with the provisions of section 1 of this act."

An Act to prohibit corporations from requiring any of its employees to procure life or accident insurance in any particular company or companies, and to declare void all contracts hereafter made between any corporation and its employees providing for life or accident insurance by such employee in any particular company.

[Act 209, P. A. 1895.]

The People of the State of Michigan enact:

Employees not required to insure with any particular company.

(502) § 8584. SECTION 1. That it shall hereafter be unlawful for any company or corporation doing business in this state or for any of the officers and agents of any such company or corporation, to require any of the employees of such company or corporation to take out or obtain a life, accident or life and accident policy in favor of such employee or other person in any particular or designated life, accident or life and accident company or association.

Contracts so made declared void.

(503) § 8585. SEC. 2. All contracts hereinafter made between any such company or corporation and any employee of said company or corporation requiring or stipulating that the employee so contracting shall procure, obtain or have a policy of insurance in any particular or designated company or association shall be void: Provided, That nothing in the foregoing provisions of this act is intended to prohibit, or shall be construed as prohibiting the employers of labor and the persons employed from voluntarily making agreements with each other for contributions of money by the latter to any fund to be accumulated in their behalf and for their benefit in common with others, and in such case from further agreeing that the employer may deduct from their wages, from time to time, the sums due from them under such agreement.

Proviso as to agreement between employer and employee.

Penalty for violation of act

(504) § 8586. SEC. 3. The violation of any of the provisions of this act is hereby made a misdemeanor, and any company or corporation violating any of the provisions

of this act shall be punished by a fine of not more than two hundred dollars for each and every offense, and any shareholder, officer or agent of any company or corporation violating the provisions of this act shall be punished by imprisonment in the county jail not more than sixty days, or by a fine of not more than one hundred dollars for each offense, or both such fine and imprisonment at the discretion of the court.

An Act to provide a punishment for the wilful injury or killing of live stock insured by any live stock insurance company, with intent to defraud such insurance company.

[Act 165, P. A. 1893.]

The People of the State of Michigan enact:

(505) § 11597. SECTION 1. That any person who shall injure or kill any horse, mule or other live stock which shall be insured by any live stock insurance company authorized to do business in this state, when such killing or injury shall be with the wilful intent on the part of such person to defraud such insurance company, whether such person shall be the owner of such insured property or not shall be deemed guilty of a felony, and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars or by imprisonment in the state prison for a term not exceeding two years, or by both such fine and imprisonment, in the discretion of the court.

The unlawful killing of animals insured.

When guilty of felony.

Penalty.

Burning Insured Property.

[R. S. '46, ch. 154.]

(506) § 11544. SEC. 9. Every person who shall wilfully burn any building, or any goods, wares, merchandise, or other chattels, which shall be at the time insured against loss or damage by fire, or shall wilfully cause or procure the same to be burned, with intent to injure the insurer, whether such person be the owner of the property or not, shall be punished by imprisonment in the state prison not more than ten years.

Burning property insured.

People v. Jones, 24 / 215; Johns v. People, 25 / 499; Hamilton v. People, 29 / 173; Meister v. People, 31 / 99; People v. Mix, 149 / 260.

An Act regulating the responsibility of the agents of insurance companies doing business in this state.

[Act 95, S. L. 1871.]

The People of the State of Michigan enact:

Agents responsible.

(507) § 11608. SECTION 1. That any person who shall be appointed, or who shall act as agent for any insurance company within this state, or who shall solicit applications, issue policies or renewals, or who shall receive or collect premiums either for original insurances or renewals, or who shall receive or collect moneys from any source or on any account whatsoever as such agent for any insurance company organized or doing business in this state, such person shall be held personally responsible to such company for any moneys received by him for such company.

Embezzlement deemed larceny.

(508) § 11609. SEC. 2. If any such agent or person shall embezzle, or convert to his own use, or shall take or secrete, or otherwise dispose of, with intent to embezzle or use, or shall withhold or appropriate, invest, loan, or otherwise fraudulently apply, or make use of, without the consent of such company, or contrary to its instructions, any money belonging to such company which shall have come into his possession, or shall be under his care, by reason of such agency, he shall be deemed by so doing to have committed the crime of larceny, and on conviction shall be subject to the fines and penalties provided by the laws of this state in such cases.

Forgery.

[R. S. '46, ch. 155.]

Forgery of records and other instruments.

(509) § 11659. SECTION 1. Every person who shall falsely make, alter, forge, or counterfeit any public record, or any certificate, return or attestation of any clerk of a court, public register, notary public, justice of the peace, township clerk, or any other public officer, in relation to any matter wherein such certificate, return, or attestation may be received as legal proof, or any charter, deed, will, testament, bond or writing obligatory, letter of attorney, policy of insurance, bill of lading, bill of exchange, promissory note, or any order, acquittance or discharge for money or other property, or any acceptance of a bill of exchange, or indorsement, or assignment of a bill of exchange or promissory note for the payment of money, or any accountable receipt for money, goods or other property, with intent to injure or defraud any

person, shall be punished by imprisonment in the state prison not more than fourteen years, or in the county jail not more than one year.

(510) § 11660. SEC. 2. Every person who shall utter and publish as true, any false, forged, altered or counterfeit record, deed, instrument or other writing mentioned in the preceding section, knowing the same to be false, altered, forged or counterfeit, with intent to injure or defraud as aforesaid, shall be punished by imprisonment in the state prison not more than fourteen years, or in the county jail not more than one year. Uttering forged instruments.

An Act to prevent the issue and sale of fraudulent stock by incorporated companies.

[Act 128, S. L. 1855.]

The People of the State of Michigan enact:

(511) § 11362. SECTION 1. Any person or persons who shall fraudulently issue or cause to be issued, any stock, scrip, or evidence of debt, of any bank, insurance, mining, plank, or other incorporated company of this state, or who shall sell or offer for sale, hypothecate, or otherwise dispose of any such stock, scrip, or other evidence of debt, knowing the same to be so fraudulently issued, shall be deemed guilty of a felony, and on conviction thereof shall be punished by imprisonment in the state prison not more than ten nor less than one year. Issuing fraudulent stock, etc., made felony. Punishment.

(512) § 11363. SEC. 2. Any person or persons who shall sell, or offer for sale any stock thus fraudulently issued, and purporting to be the stock, scrip, or evidence of debt of any corporation located out of the state of Michigan, knowing the same to be so fraudulently issued, or shall hypothecate, or in any manner dispose of the same for value, shall, on conviction thereof, be punished by imprisonment in the state prison not more than ten nor less than one year. Knowingly selling fraudulent stock, how punished.

(513) § 11364. SEC. 3. Every banking, insurance, mining, plank road, or other incorporated company, which issues script or shares, shall within ninety days after the passage of this act, file with the secretary of state a list of the number of shares issued by said corporation, and the names of the owners thereof and their postoffice addresses, with the number of shares owned by each; and annually thereafter shall file with said secretary of state during the months of January or February, in each and every year, a statement similar to that above required, showing the ownership of the shares of said corporation at the day of the date of said With whom to file list of shares. To make annual report.

statement; all of which statements, including the first, shall be made by one of the officers of said company, under oath: **Proviso.** Provided, That corporations which file an annual report with the secretary of state containing a list of stockholders with the postoffice addresses and the number of shares held by each, shall not be required to file a separate list under this act.

Am. 1903, Act 35.

Fine for neglect to file statement, etc.

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(514) § 11365. SEC. 4. In case any of said incorporated companies shall fail so to make such primary or such annual statements as are above required, they shall be liable to pay a fine of not more than five hundred dollars for any such violation of this law, which may be recovered in the name of the people of the state of Michigan, in any court of record, and when so collected shall be paid into the township treasury of the town or city where such corporation is located, for the benefit of the primary school fund of said town or city.

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